



**TOWN OF ASHBURNHAM  
ANNUAL TOWN MEETING  
WARRANT ARTICLES**

*Tuesday, May 04, 2021  
7:00 p.m.  
Oakmont Regional High School Auditorium  
9 Oakmont Drive  
Ashburnham, MA 01430*



## Table of Contents

<u>Consent</u>	<u>Amount of Article</u>
----------------	--------------------------

- |   |   |
|---|---|
| 1. Admin – Accept Town Reports  | - |
| 2. Admin – Authorize Pilot Payment                                      | - |
| 3. Admin – Authorize Treasurer / Collector to borrow                    | - |
| 4. Admin – Authorize TA to contract with Mass Highway                   | - |
| 5. Admin – Appropriate Chapter 90 funds                                 | - |
| 6. Admin – Transfer from Waterways Improvement Fund to Ashburnham Lakes | - |

### Finances

- |   |            |
|---|------------|
| 7. FY22 Budget – Revolving Fund Amounts (RAD, Fire Alarm Fees, AEDC Banner) | 45,000     |
| 8. FY22 Budget – Water Enterprise Fund                                      | 791,124    |
| 9. FY22 Budget – Sewer Enterprise Fund                                      | 792,023    |
| 10. FY22 Budget – General Operating Budget                                  | 18,343,547 |
| 11. FY22 Budget – From Operating Budget for Capital Projects                | 39,999     |

### Administrative

- |  |   |
|--|---|
| 12. Admin – Rescind town meeting vote March 10, 1973 land use  | - |
| 13. Admin – Change name in General By-Laws to Select Board     | - |
| 14. Admin – Rescind 1993 town meeting vote Article 28 land use | - |



**ANNUAL TOWN MEETING WARRANT  
TOWN OF ASHBURNHAM  
COMMONWEALTH OF MASSACHUSETTS**

WORCESTER, SS

TO THE CONSTABLES OF THE TOWN OF ASHBURNHAM, IN WORCESTER COUNTY,  
GREETINGS:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, YOU ARE HEREBY  
DIRECTED TO NOTIFY AND WARN THE INHABITANTS OF SAID TOWN QUALIFIED  
TO VOTE IN ELECTIONS AND TOWN AFFAIRS TO MEET AT OAKMONT REGIONAL  
HIGH SCHOOL AUDITORIUM, 9 OAKMONT DRIVE, ASHBURNHAM, MA ON

**TUESDAY, THE FORTH OF MAY 2021  
BEGINNING AT 7:00 P.M.**

THEN AND THERE TO VOTE ON THE FOLLOWING ARTICLES AND RESOLUTIONS:

**ARTICLE 1**

To accept the reports of several town officers and all outstanding committees, or act in  
relation thereto. *(Requested by the Board of Selectmen)*

**Brief Explanation:** *Annual article to accept the reports of Town officials and  
boards.*

**ARTICLE 2**

To see if the Town will vote to authorize a PILOT payment based on the annual kilowatt  
sales of the Light Department multiplied by a per kilowatt value from the Municipal Light  
Plant Funds, to the town treasury, as authorized by its Light Board in accordance with  
Chapter 164 of the General Laws of the Commonwealth, or act in relation thereto.  
*(Requested by the Municipal Light Department)*

**Brief Explanation:** *The PILOT agreement is tied to the Pilot payment in the  
annual kilowatt sales of the light department multiplied by a per kilowatt value.  
This was put in place for FY13 to ease the calculation and establish a standard  
process for future years. In FY22 it is estimated we will receive \$67,300.*

**ARTICLE 3**

To see if the Town will vote to authorize the Town Treasurer/Collector, with the approval  
of the Board of Selectmen, to borrow money from time-to-time in anticipation of the  
revenue of the financial year beginning July 1, 2021, in accordance with the provisions of  
the Massachusetts General Laws, Chapter 44, Section 4, and to issue a note or notes as may  
be given for a period of less than one year in accordance with the Massachusetts General  
Laws, Chapter 44, Section 17, or act in relation thereto. *(Requested by the Town  
Treasurer/Collector)*

**Brief Explanation:** *Allows the Treasurer to temporarily borrow operating funds  
for the Town to ensure payments are done in a timely manner. The Treasurer can  
only borrow that amount which is expected to be received.*



## ARTICLE 4

To see if the Town will vote to authorize the Town Administrator to enter into a contract or contracts with the Massachusetts Highway Department for the construction and maintenance of town roads in conformance with the Massachusetts General Laws, or act in relation thereto. *(Requested by the Town Administrator)*

**Brief Explanation:** *This article allows the Town Administrator to contract with the State to do road repairs in Ashburnham. This article does not approve any specific project/road, but rather provides the delegation of authority to allow the TA to enter into a contract with the State.*

## ARTICLE 5

To see if the Town will vote to appropriate all funds which become available in the Fiscal Year 2022 from the Commonwealth of Massachusetts Department of Highways, Chapter 90 Bond Issue proceeds, to be used by the DPW for the repair and maintenance of town roads in conformance with Massachusetts General Laws, or act in relation thereto. *(Requested by the Town Administrator)*

**Brief Explanation:** *This annual article allows the Town to expend its Chapter 90 state funds. For fiscal year 2022 the amount of those funds is estimated to be \$341,939.*

## ARTICLE 6

To see if the Town will vote to transfer a sum of money not to exceed \$1,500 from the Waterways Improvement Fund for the purpose of waterway improvement, maintenance, and safety, or act in relation thereto. *(Requested by the Ashburnham Lakes Coalition)*

**Brief Explanation:** *The Waterways Improvement Fund is funded by a portion of the boat excise tax to be used for waterways maintenance, access, law enforcement or fire prevention. The Ashburnham Lakes Coalition has been given the charge of recommending the use of these monies to the Board of Selectmen who then approve or disapprove expenditures. In the past these monies have been used for Police boat patrols, lifesaving courses, purchase of a Police boat and other water related expenditures.*

## ARTICLE 7

To see what spending limits the Town will establish for revolving accounts established pursuant to Chapter 44, section 53E½ of the Massachusetts General Laws and Ashburnham General Bylaws for Fiscal Year 2021; or take any other action related thereto.

<b><u>Revolving Fund</u></b>	<b><u>Spending Limit</u></b>
RAD Program	\$15,000
Fire Alarm & Communications	\$20,000
Economic Development Banner Program	\$10,000

**Brief Explanation:** *Now that the revolving funds are established, the limits to what can be collected in each fund and expended is an annual requirement.*





## ARTICLE 8

To see if the Town will vote to raise and appropriate the sum of **\$791,124** to operate the Water Department for the fiscal year beginning July 1, 2021, or act in relation thereto.  
(Requested by the Town Administrator)

Salaries	87,380
Expenses	129,396
Water Filtration Plant	312,000
Debt Service	121,631
Indirect Costs	<u>140,717</u>
	<b>\$ 791,124</b>

**Brief Explanation:** The FY22 expenses reduced 3.28% over FY21. Indirect costs decreased.

## ARTICLE 9

To see if the Town will vote to raise and appropriate the sum of **\$792,023** to operate the Sewer Department for fiscal year beginning July 1, 2021, or act in relation thereto.  
(Requested by the Town Administrator)

Salaries	50,487
Expenses	128,747
Service Charges Gardner	475,000
Debt Service	-
Indirect Costs	<u>137,789</u>
	<b>\$ 792,023</b>

**Brief Explanation:** The FY22 Sewer Budget expenses increased by 1.69% over FY21. Indirect costs decreased.

## ARTICLE 10 FY22 ANNUAL OPERATING BUDGET

To see if the Town will vote to raise and appropriate the sum of **\$18,206,224** to defray the expenses of the Town for the fiscal year commencing July 1, 2021, and to set the salaries of elected officials as set forth below, and to transfer from available funds:

**\$1,000** from Cushing Academy Trust Fund for secondary school expenses;

**\$16,969** from special assessments Title V Receipts Account to pay principal and interest on notes payable to the Water Pollution Abatement Trust;

**\$50,000** from Conservation Wetland Fees,

**\$69,354** from Reserve for Amortization Bond Premium, or act in relation thereto.

(Requested by the Board of Selectmen and Advisory Board)



Line	Department	Adjusted Budget FY20	Budget FY21
1	Moderator	100	100
2	Board of Selectmen	8,122	33,125
3	Town Administrator	271,465	277,745
4	Advisory Board	500	500
5	Reserve Fund	50,000	50,000
6	Town Accountant	95,200	112,700
7	Board of Assessors	116,484	121,425
8	Treasurer/Collector	167,114	171,305
9	Tax Title	19,900	17,500
10	IT Expense	185,016	194,850
11	Town Clerk	59,693	55,830
12	Conservation Commission	27,306	27,960
13	Open Space Recreation Committee	1,272	1,275
14	Inspectional Services	173,160	172,605
15	Town Buildings	227,130	226,225
16	Non-Departmental	125,355	116,650
17	Police	1,598,009	1,666,935
18	Fire	804,361	843,630
19	Emergency Dispatch	305,970	314,740
20	Animal Control	34,650	35,690
21	Monty Tech	574,410	589,095
22	Ash-West Reg School District	7,917,931	8,083,770
23	Highway	1,046,535	1,090,570
24	Snow & Ice	230,000	230,000
25	Board of Health	22,455	23,580
26	Council on Aging	34,694	35,470
27	Veterans' Services	82,686	83,185
28	Agricultural Commission	1,000	1,000
29	Library	233,874	242,265
30	Parks & Recreation Committee	16,500	21,500
31	Historical Commission	1,250	1,250
32	Debt Service	1,717,142	1,653,705
33	Employee Insurance Benefits	1,659,459	1,847,367
<b>Total</b>		<b>17,809,090</b>	<b>18,343,547</b>

Setting of Elected Salaries under Article 12:

- a. Town Moderator: \$100
- b. Board of Selectmen: Chairman - \$1,300; Clerk - \$1,100; Member - \$1,100



**Brief Explanation:** *Annual operating budget article as noted represents a 2.99% increase over the FY21 budget. The revenues also cover the capital items in the next article. The revenues to offset the cost of the proposed budget come from the following sources:*

REVENUES	FY21- EST
<b>Property Tax Levy</b>	
Prior Yr Levy Limit	13,451,662
2 1/2 % Increase	336,292
New Growth	125,000
Debt Service Override-School	1,182,307
Debt Service Override-Municipal	583,287
Other	0
less overlay	(150,000)
Levy Total	15,528,548
State Aid	1,005,093
Local Receipts Revenue and Transfers In	1,849,905
<b>Total Revenue:</b>	<b>18,383,546</b>

## ARTICLE 11

To see if the Town will vote to raise and appropriate from available funds the sum of **\$39,999** to fund the recommendation of the Capital Planning Committee to include the following:

Line	Item	Amount
1	Volvo Loader 4 <sup>th</sup> of 5-year payments	39,999
		<hr/>
		\$ 39,999

or act in relation thereto. *(Requested by the Town Administrator)*

**Brief Explanation:** *The capital article is limited to the required articles, which due to financial commitments and imminent departmental need to be addressed at Annual Town Meeting.*



## ARTICLE 12

To see if the town will vote to rescind the vote approved under article 27 of the Annual Town Meeting held March 10, 1973, authorizing a group of citizens to construct and develop a multi-use athletic area at their own expense on town owned land located between the Dolly Whitney Adams School (now the Stevens Memorial Library) and Chapel Street (known as Winchester Park), and further to ratify and confirm that all improvements and equipment installed pursuant to said authority are and shall remain property of the town, or act in relation thereto.

**Brief Explanation:** The intent in 1973 was to authorize a private group to develop and construct a multi-use athletic facility, such as tennis courts and/or a hockey rink. This development did not come to fruition and would not be practical today or in the future. Therefore, this authorization should be rescinded.

## ARTICLE 13

To see if the town will vote to change the name of the "Board of Selectmen" to the "Select Board" and to so amend the General Bylaws in each and every instance where the term "Board of Selectman," Selectmen or selectmen appears, and replace it with "Select Board," as indicated in the copy of the General Bylaws attached hereto, and further, to effect the same name change, to authorize the Board of Selectmen to petition the General Court for a Special Act of the Legislature as follows:

### AN ACT CHANGING THE NAME OF THE BOARD OF SELECTMEN IN THE TOWN OF ASHBURNHAM.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of same, as follows:

SECTION 1. Section 2 of SECTION 3 of Chapter 140 of the Acts of 2011 is hereby amended by striking out, in line 1 of the first paragraph, the words "board of selectmen" and inserting in place thereof the following words: select board.

SECTION 2. Section 2 of SECTION 3 of said Chapter 140 is hereby further amended by striking out in lines 1, 2, and 3 of the second paragraph, the words "board of selectmen" and inserting in place thereof the following words: select board.

SECTION 3. Section 4 of SECTION 3 of said Chapter 140 is hereby amended by striking out, in line 1, the words "board of selectmen" and inserting in place thereof the following words: select board.

SECTION 4. Section 5 of SECTION 3 of said Chapter 140 is hereby amended by striking out in lines 1,2,6,10,15,16,17 and 18, of the first paragraph the words "board of selectmen" and inserting in place thereof the following words: select board.

SECTION 5. Section 5 of SECTION 3 of said Chapter 140 is hereby further amended by striking out in line 1 of the second paragraph the words "board of selectmen" and inserting in place thereof the following words: select board.





SECTION 6. Section 6 of SECTION 3 of said Chapter 140 is hereby amended by striking out in lines 2 and 4 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 7. Section 7 of SECTION 3 of said Chapter 140 is hereby amended by striking out in lines 1,3, and 5 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 8. Section 8 of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 1, of the first paragraph the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 9. Section 8 (a) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 1 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 10. Section 8(b) of SECTION 3 of said Chapter 140 is hereby amended by striking out in lines 2, 5 and 6 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 11. Section 9 of SECTION 3 of said Chapter 140 is hereby amended by striking out in lines 2, 4 and 5 of the first paragraph the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 12. Section 9 of SECTION 3 of said Chapter 140 is hereby further amended by striking out in lines 1, 6, 7 and 8 of the second paragraph the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 13. Section 10 (a) of SECTION 3 of said Chapter 140 is hereby amended by striking out in lines 1 and 3 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 14. Section 10 (b) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 1 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 15. Section 10 (d) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 5 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 16. Section 10 (e) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 1 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 17. Section 10 (f) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 3 the words “board of selectmen” and inserting in place thereof the following words: select board.



SECTION 18. Section 10 (g) of SECTION 3 of said Chapter 140 is hereby amended by striking out in lines 1 and 2 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 19. Section 10 (j) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 3 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 20. Section 10 (k) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 1 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 21. Section 10 (l) of SECTION 3 of said Chapter 140 is hereby amended by striking out in lines 1 and 4 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 22. Section 10 (q) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 2 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 23. Section 10 (r) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 4 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 24. Section 10 (s) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 4 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 25. Section 10 (t) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 4 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 26. Section 10 (v) of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 2 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 27. Section 11 of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 5 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 28. Section 12 of SECTION 3 of said Chapter 140 is hereby amended by striking out in lines 3, 4, 11, and 14 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 29. Section 13 of SECTION 3 of said Chapter 140 is hereby amended by striking out clause (b) thereof inserting in place thereof the following clause (b) select board.

SECTION 30. Section 14 of SECTION 3 of said Chapter 140 is hereby amended by striking out in line 2 the words “board of selectmen” and inserting in place thereof the following words: select board.



SECTION 31. Section 15 of SECTION 3 of said Chapter 140 is hereby amended by striking out in lines 1 and 3 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 32. Section 16 of SECTION 3 of said Chapter 140 is hereby amended by striking out in lines 4 and 6 the words “board of selectmen” and inserting in place thereof the following words: select board.

SECTION 33. This act shall take effect upon passage.;

Or act in relation thereto.

A copy of the Town Charter, Chapter 140 of the Acts of 2011, depicting the proposed changes is attached hereto.

Explanation: To update the name of the board, all references have to be changed in the bylaws and the charter. There are some references to the Board of Selectmen in the Zoning Bylaws, which must go through the amendment process set forth in Chapter 40A. This process should be able to be completed for before the annual town meeting, at which time similar amendments can be proposed to those bylaws.

## ARTICLE 14

To see if the town will vote to rescind Article 28 of the 1993 Town Meeting which transferred custody of a parcel of land on School Street in South Ashburnham, the former site of the Emeline Jewell Whitney School, to the Council on Aging and dedicated it to the construction of a new senior citizens center, and further to transfer custody of this parcel to the Board of Selectman for disposition or use in the best interests of the town, or act in relation thereto. (Requested by the Board of Selectman)

**Brief Explanation:** In 1993 the intent was to enable the Council on Aging to build a senior center on this town owned land in South Ashburnham. Since there remains a need for more senior housing, the selectmen would like to explore broader development opportunities for this parcel which would include senior housing in addition to an onsite senior community center.



And you are hereby directed to serve this warrant in accordance with eh provisions of Section 3, Chapter II of the Town By-Laws by posting attested copies thereof as therein provided.

Hereof fail not and make do return of this Warrant with your doings thereon, to the Town Clerk on or before the said day and hour of meeting.

\_\_\_\_\_  
Leo Janssens II, Chairman

\_\_\_\_\_  
*William Johnson*  
William Johnson, Clerk

\_\_\_\_\_  
*Rosemarie Meissner*  
Rosemarie Meissner, Member

A True Copy, Attest:

\_\_\_\_\_  
*[Signature]*  
Constable

\_\_\_\_\_  
4/22/2021  
Date





CHAPTER 140  
S.B. No. 2005  
**TOWN OF ASHBURNHAM--CHARTERS**

AN ACT relative to the town charter for the **town of Ashburnham**.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the  
same, as follows:

SECTION 1. Chapter 428 of the acts of 1986 is hereby repealed.

SECTION 2. This act may be cited and known as the Ashburnham governmental charter.

SECTION 3. The following shall be the charter of the **town of Ashburnham**:

Section 1. Upon the effective date of this act, the **town of Ashburnham** shall be governed by this charter. To the extent that this charter modifies or repeals existing general or special laws or that body of law which constitutes the town charter under Section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this charter shall govern. For the purposes of this charter, all references to officers, employees or other personnel shall apply equally to males and females regardless of the gender or pronoun used.

Section 2. The select board of the **town of Ashburnham** shall appoint the town accountant, the water and sewer commissioners, the town counsel, the constables and the members of the historical commission, the arts commission and all other boards, committees and commissions except those appointed by the moderator or otherwise appointed in accordance with this charter. The moderator shall continue to appoint officials heretofore appointed by the moderator.

The executive powers of the town shall be vested in the select board and it shall serve as the chief policy-making agency of the town. The select board shall continue to have and to exercise all of the powers and duties vested in boards of select board by the laws of the commonwealth or by vote of town meeting, except as otherwise provided in this charter.

Section 3. The regional school committee members shall continue to be elected in conformity with the votes of the regional school district. All powers, rights and duties, now or hereafter conferred or imposed by law upon the regional school committee, shall be exercised and performed by the regional school committee. Nothing in this charter shall be construed to affect the powers and duties of the regional school committee as provided by law.

Section 4. No member of the select board, the regional school committee or the advisory board, during the term for which such member was elected or appointed, shall be eligible either by election or appointment to hold any other town office. Any person appointed by the town administrator to any town office under this charter or any general or special law shall be eligible during the term of such office for appointment to any other town office, except that the town accountant shall not be eligible to hold the positions of town treasurer or town collector. The town administrator,



subject to any applicable general law relating thereto, may assume the duties of any office which he is authorized to fill by appointment.

Section 5. The select board, elected as provided in section 13, shall appoint, by majority vote, a town administrator as soon as practicable and for a definite term to be set by the select board. The town administrator shall be a person especially suited by education, training and experience to perform the duties of the office and shall be appointed without regard to his political affiliations or beliefs. The town administrator shall devote full-time to the office and shall not hold any other public office, elective or appointed, without prior approval of the select board, nor engage in any other business, occupation or profession during his term of office which would deprive him from devoting full-time to his duties during normal working hours. The town administrator need not be a resident of the town or of the commonwealth when appointed but he shall become a resident of the town of **Ashburnham** or of a town in the commonwealth within a 40 mile radius of Ashburnham during the first year of his term of office unless otherwise provided by the board of selectmen. The town administrator shall possess a college degree at the bachelor level and shall have had 3 years of full-time, paid experience in a supervisory administrative position, a portion of which, either full-time or part-time, shall have been in the public sector. A masters degree may substitute for not more than 1 year of such paid experience. The town administrator shall execute a bond in favor of the town for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed or approved by the select board and the cost for such bond shall be paid by the town. The select board may enter into a formal contract with the town administrator for a probationary period of 6 months to be followed by a term or terms not to exceed 3 years per term. The select board shall cause the contract to be reviewed by legal counsel. The select board may establish a job description for the town administrator, which shall take precedence over any personnel by-laws of the town.

The town administrator shall receive such compensation for his services as the select board shall determine, but such compensation shall not exceed the amount appropriated therefor by the town.

Section 6. If the office of the town administrator becomes vacant as a result of death, removal, resignation or otherwise, or if the town administrator is granted a leave of absence exceeding 2 weeks, the select board, by affirmative vote of a majority of its members, shall appoint a qualified individual to serve as acting town administrator. Any vacancy in the office of the town administrator shall be filled as soon as possible by the board of selectmen.

Section 7. Subject to approval by the select board, the town administrator may designate, by letter filed with the town clerk, a qualified officer or individual of the town to perform the town administrator's duties during a temporary absence or disability. If the town administrator fails to make such a designation, the select board may, by resolution, designate an officer or individual of the town to perform the duties of the town administrator until the town administrator shall return or his disability shall cease. In any case, the select board shall approve all warrants during the absence or disability of the town administrator.

Section 8. The select board may remove the town administrator from office in accordance with the following procedure:

(a) The select board shall adopt a preliminary resolution of removal, in writing, by an affirmative vote of a majority of its members. At least 30 days before such proposed removal shall become effective, a copy of the preliminary



resolution shall be sent to the town administrator, by certified and first class mail, to his address of record with the town. In the preliminary resolution, the select board may suspend the town administrator from duty.

(b) Within 10 days of receipt of service of such resolution, the town administrator may reply, in writing, to the resolution and request a public hearing. If the town administrator so requests, the select board shall hold a public hearing not earlier than 20 days but not later than 30 days after the filing of such request. Following the public hearing, if any, and otherwise at the expiration of 30 days following the filing of the preliminary resolution, the select board may adopt a final resolution of removal, after full consideration and by unanimous vote of the full membership of the board. Upon the adoption of a final resolution of removal, the select board may pay the town administrator severance pay in the amount equal to 1 month's pay for each full year of service to the town, but not more than an amount equal to 3 months' pay.

Section 9. The select board, in conjunction with the town administrator, shall annually define goals and performance objectives for the ensuing year, which the board and the town administrator determine necessary for the proper operation and welfare of the town and to attain the policy objectives of the board provided; however, that the town administrator and the select board shall meet and set such goals and objectives after the expiration of 6 months of a town administrator's first year in office. The select board and town administrator shall further establish, in writing, a relative priority among the various goals and objectives.

The select board shall review and evaluate the performance of the town administrator on a formal basis once annually. The review and evaluation shall include, but not be limited to: the town administrator's progress and performance relative to the annual goals and objectives as described in this section; budgetary and financial administration; personnel administration, supervision and leadership; staff development; public relations; employee and labor relations; policy execution; and interaction with governmental officials and the town's select board, departments, committees and other boards. After each formal review and evaluation, the town's select board shall provide the town administrator with a written evaluation report and with an opportunity to discuss the review and evaluation with the select board and submit written comments in relation thereto.

Section 10. In addition to the specific powers and duties provided in this charter, the town administrator shall have the following general powers and duties:

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(a) The town administrator shall be responsible to the select board for the efficient administration of all departments, commissions, boards and offices placed in the town administrator's charge by this charter, the select board or vote of town meeting, except the select board, the regional school committee, the municipal light board, the advisory board, the library trustees, the moderator and other boards, committees, commissions or officers, the discretionary powers of which are granted by statute.

(b) With the approval of the select board, the town administrator may, in accordance with this charter and unless expressly prohibited by general law: reorganize, consolidate or abolish departments, commissions, boards or offices under his direction and supervision, in whole or in part; establish such new departments, commissions, boards or offices as he deems necessary; and transfer the powers and duties of 1 department, commission, board or office to another.



(c) The town administrator may approve, upon the recommendation of department heads, the appointment and removal of all officers and employees of the town, subject to chapter 31 of the General Laws. Department heads shall select, on merit and fitness alone, all department employees for such recommendation. The town administrator shall appoint on merit and fitness alone and may remove, subject to said chapter 31, all officers and employees of the town who are not otherwise appointed or elected under this charter. Town officers and employees not subject of said chapter 31 shall not be removed by the town administrator except after 10 days notice in writing, setting forth the cause of such removal.

(d) Notwithstanding section 108 of chapter 41 of the General Laws, but subject to chapter 31 of the General Laws, the town administrator shall fix the compensation of all town officers and employees subject to appointment by him, except department heads and any employees under a written contract with the town. Compensation, changes in compensation or benefits or contract renewals may be recommended by the town administrator and shall become effective upon a majority vote of the board of selectmen.

(e) The town administrator shall attend all regular meetings of the select board except meetings at which his removal is being considered.

(f) The town administrator shall keep full and complete records of his office and shall render a full report of all operations during the period which the report covers and such a report shall be submitted as often as may be required by the select board but at least annually. Upon request, the members of the select board shall have full access to these records, unless such access is restricted by statute; provided, however, that the board shall not disclose any confidential or privileged information protected by law.

(g) The town administrator shall keep the select board fully advised as to the needs of the town and shall recommend to the select board for adoption such measures requiring action by them or by the town as he deems necessary or expedient.

(h) The town administrator shall have jurisdiction over the rental and use of all town property and shall be responsible for the maintenance and repair of all town buildings. He shall be responsible for the preparation of plans and the supervision of work on existing buildings or the construction of new buildings.

(i) The town administrator shall be responsible for the purchase of all supplies, materials and equipment, except books and educational materials for schools and books and other media for libraries, and shall approve the award of all contracts for all departments of the town. He shall make purchases for departments not under his supervision only upon requisition duly signed by the head of such department.

(j) The town administrator shall administer, either directly or through a person or persons appointed by him in accordance with this charter, all general and special laws applicable to the town, all town by-laws and all regulations established by the board of selectmen.





(k) The town administrator shall have authority, subject to the approval of select board, to prosecute, defend and compromise all litigation to which the town is a party and shall be the designated executive officer of a public employer in the town, in accordance with section 1 of chapter 258 of the General Laws, for the purpose of processing claims against the town.

(l) The town administrator shall be the select board's agent for collective bargaining and shall negotiate within parameters as may be established by the board. The town administrator may employ special counsel to assist him in the performance of these duties. Any grievance filed by a collective bargaining unit group shall be brought to the attention of the select board by the town administrator.

(m) The town administrator shall assist the capital planning committee in preparation of the town's capital plan.

(n) The town administrator shall attend all town meetings and shall be permitted to speak when recognized by the moderator.

(o) The town administrator shall be responsible for the implementation of town meeting votes and shall report annually, in writing, to the town meeting on the status of incomplete implementation of any prior town meeting vote.

(p) The town administrator shall be accessible and available for consultation to the chairmen of boards, committees and commissions of the town, whether appointed or elected, and shall make all data and records of his office accessible and available to the chairmen as they may request in connection with their official duties.

(q) The town administrator shall perform such other duties, consistent with his office, as may be required of him by the by-laws of the town or by vote of the select board or of town meeting.

(r) The town administrator shall act as grant coordinator for the town. He shall collect and distribute information concerning grants, establish uniform procedures for grant applications, prepare and assist in developing grant proposals and monitor all town grants to ensure fiscal and program compliance. Any grant that may add personnel or increase the operating costs of the town in a current or future year shall be approved by the board of select board prior to the submission thereof.

(s) The town administrator shall act as the town's insurance coordinator. He shall be responsible for ensuring that: all pertinent policies are in effect; adequate insurance coverage is provided; claims are properly processed; and cost benefit analysis is conducted on existing policies and he shall propose changes thereto. He shall render an annual report to the board of select board on all claims made and any losses sustained.

(t) The town administrator shall plan, organize and supervise the operational audits of the activities of town departments to evaluate the efficiency of resource utilization and the effectiveness of governmental services. Audit areas may include staffing, scheduling, vehicle management, and any other area requested by the select board .

(u) The town administrator shall ensure that the town maintains a professional personnel system by monitoring the



effectiveness of policies, procedures and practices as required by law and in accordance with proper personnel practices. He shall ensure that the recruitment, selection, promotion, transfer, discipline and removal of employees is conducted in accordance with applicable state and federal laws and with personnel by-laws and policies of the town adopted pursuant thereto.

(v) The town administrator shall facilitate crisis intervention in emergency situations working with the key officials of the town including the chair of the select board, the police chief, the fire chief, the department of public works, the water-sewer superintendent, the superintendent of schools and the town counsel.

Section 11. The town administrator may, without notice, cause the examination of the affairs of any division or department under his supervision or of the job-related conduct of any officer or employee thereof. The town administrator shall have access to all town books and papers for information necessary for the proper performance of such examination. The town administrator shall promptly transmit any findings of wrongdoing to the select board.

Section 12. Upon the expiration of the term of the town clerk in office on the effective date of this act, or if such office shall become vacant before the expiration of such term, the town administrator shall appoint the town clerk with the approval of the select board. The town administrator shall appoint, with the approval of the select board, the town treasurer, the tax collector, the assessors, the commission of trust funds, the industrial commission, the energy conservation and fuel allocation board, the council on aging, the conservation commission, the board of registrars, the zoning board of appeals, the election officials, the parks and recreation commission, and all other town officials whose appointment or election is not specifically provided for in this section. Unless otherwise specified by general or special law, members of all boards, commissions, committees and councils appointed by the town administrator shall be appointed for a specific term of office, not to exceed 5 years; provided, however, that for each such board, commission, committee and council, the term of at least 1 member shall expire each year. The town administrator shall appoint and may remove, subject to the approval of the select board and to chapter 31 of the General Laws, department heads, officers and subordinates and employees for whom no other method of appointment is provided in this charter. The town administrator's evaluations of all department heads shall be approved by the select board.

Section 13. The registered voters of the **town of Ashburnham** shall, in accordance with applicable law, town by-law and vote of the town, continue to elect the following:

- (a) the moderator;
- (b) the select board;
- (c) the regional school committee members;
- (d) the planning board;
- (e) the board of health;



(f) the library trustees; and

(g) the municipal light board.

Section 14. At least 90 days prior to the annual town meeting, the town administrator shall submit to the select board a careful, detailed and written estimate of the probable expenditures of the town government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town and specifically showing the amount necessary to be provided for each fund and department, together with a statement of the expenditures of the town for the same purposes in the preceding year and an estimate of the expenditures for the current year. He shall submit a statement showing all revenues received by the town in the preceding fiscal year, together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue, exclusive of taxes upon property in the ensuing year. The town administrator shall report the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise that amount. For the purposes of enabling the town administrator to project the annual estimates of expenditures, all boards, offices and committees of the town shall, at least 120 days prior to the annual town meeting, furnish all information in their possession and submit to him a detailed, written estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

Section 15. The select board shall consider the tentative budget submitted by the town administrator and make such recommendations relative thereto as it deems expedient and proper in the best interests of the town. On or before the seventy-fifth day prior to the annual town meeting, the select board shall transmit a copy of the budget, together with its recommendations relative thereto, to each member of the advisory board.

Section 16. The town administrator shall be the chief fiscal officer of the town. Warrants for the payment of town funds, prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws, shall be submitted to the town administrator. The approval of any such warrant by the town administrator shall be sufficient authority to authorize payment by the town treasurer; provided, however, that the select board shall approve all warrants in the event of a vacancy in the office of the town administrator. The town administrator shall present all warrants to the select board for review.

Section 17. All laws, town by-laws, votes, rules and regulations, which are in force in the town of Ashburnham on the effective date of this act, or any portion or portions thereof, not inconsistent with this charter, shall continue in full force and effect until otherwise provided by other law, town by-law, vote, rule or regulation, respectively. If any general or special law, town by-law, vote, rule or regulation is inconsistent with this charter, the provisions of this charter shall control.

Section 18. On the effective date of this act, any person holding a town office or employed by the town shall retain such office or employment and continue to perform his duties until another person or agency is selected to perform the duties thereof in accordance with the Ashburnham governmental charter. No person who continues in the permanent full-time service or employment of the town pursuant to this section shall forfeit his pay grade or time in service.



SECTION 4. This act shall take effect upon its passage.

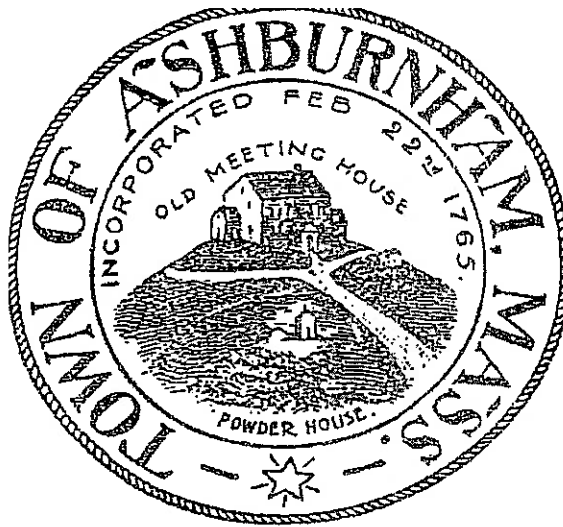
Approved October 27, 2011.

MA LEGIS 140 (2011)

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## **GENERAL BY-LAWS**

# **TOWN OF ASHBURNHAM, MASSACHUSETTS**

**A TRUE COPY, ATTEST  
REVISED AUGUST 20, 2018**

**MICHELLE JOHNSON  
TOWN CLERK**

## Table of Contents

CHAPTER I: GENERAL PROVISIONS.....	I
CHAPTER II: TOWN MEETINGS.....	1
CHAPTER III: GOVERNMENT OF TOWN MEETINGS .....	2
CHAPTER IV: APPOINTIVE TOWN COMMITTEES AND BOARDS .....	3
CHAPTER V: CAPITAL BUDGETING .....	4
CHAPTER VI: ADVISORY COMMITTEE .....	5
CHAPTER VII: CONTRACTS BY TOWN OFFICERS.....	6
CHAPTER VIII: RECORDS AND REPORTS .....	7
CHAPTER IX: LEGAL AFFAIRS .....	8
CHAPTER X: JUNK AND SECOND HAND DEALERS AND COLLECTORS .....	9
CHAPTER XI: USE OF PUBLIC WAYS AND PLACES.....	10
CHAPTER XII: NEW CONSTRUCTION .....	14
CHAPTER XIII: PROTECTION OF WELLS .....	15
CHAPTER XV: COUNCIL ON AGING.....	15
CHAPTER XVI: MUNICIPAL DOG CONTROL LAW .....	18
CHAPTER XVII: REVOCATION OR SUSPENSION OF LOCAL LICENSES .....	21
CHAPTER XVIII: DEMOLITION DELAY .....	23
CHAPTER XIX: RECYCLING .....	26
CHAPTER XX: RULES AND REGULATIONS FOR MUNICIPAL SEWER COLLECTION DISPOSAL SYSTEM .....	26
CHAPTER XXI: RAPID ENTRY SYSTEMS FOR THE FIRE DEPARTMENT .....	62
CHAPTER XXII: WATER USE RESTRICTION.....	63
CHAPTER XXIII: UNREGISTERED MOTOR VEHICLE OR TRAILER REGULATIONS .....	65
CHAPTER XXIV: ENFORCEMENT .....	65
CHAPTER XXV: STREET ADDRESS NUMBERING .....	66
CHAPTER XXVI: WETLANDS PROTECTION.....	67
CHAPTER XXVII: PERSONNEL .....	74
CHAPTER XXVIII: LOW IMPACT DEVELOPMENT (LID) BYLAW .....	105
CHAPTER XXIX: AFFORDABLE HOUSING TRUST FUND .....	110
CHAPTER XXX: RIGHT TO FARM BYLAW .....	114
CHAPTER XXXI: DEPARTMENTAL REVOLVING FUNDS .....	117
CHAPTER XXXII: PAYMENT AGREEMENTS FOR OVERDUE TAXES .....	118
CHAPTER XIV: PAID VACATIONS FOR TOWN EMPLOYEES .....	119

## **GENERAL BY-LAWS**

### **TOWN OF ASHBURNHAM, MASSACHUSETTS**

#### **CHAPTER I: GENERAL PROVISIONS**

Section 1 The following provisions shall constitute the General By-Laws of the Town of Ashburnham, which shall be in lieu of all by-laws heretofore in force.

Section 2 Any or all of these by-laws may be repealed or amended or, other by-laws may be adopted at a town meeting, an article or articles for that purpose having been inserted in the warrant.

Section 3 Except when otherwise provided by law, prosecution of any violation of the by-laws of the town may be made by any law enforcement officer of the town.

Section 4 Whoever violates any provisions of these by-laws, whereby any act or thing is enjoined or prohibited, shall, unless other provision is expressly made, forfeit and pay a fine of one hundred dollars (\$100.00) for each offense.

Section 5 These by-laws shall go into effect upon their acceptance by the town meeting, their approval by the Attorney General, and their publication in the manner required by law.

Section 6 These by-laws shall be reviewed every five (5) years under the direction of the Select Board  
(Amended 11-17-10 ATM by Art. 14, amended 4-3-93 ATM by Art. 5)

#### **CHAPTER II: TOWN MEETINGS**

Section 1 The Annual Town Meeting shall be held on the first Tuesday in May at 7:00 p.m. in the evening. Notwithstanding the foregoing, however, the Select Board may, in their discretion, vote to designate any other date in April or May for the Annual Town Meeting. All business of the annual town meeting, except the election of town officials and other matters to be determined by ballot, shall be considered at this time. This meeting may be adjourned to such other times and places as may be determined by the meeting. Special town meetings shall be held as provided by law.

Section 2 On the last Tuesday of April, the election of town officials and voting on other matters to be determined by ballot shall take place pursuant to a warrant issued according

to the General Laws. This day is to provide a uniform election date with Westminster. Special town meetings may be held as provided by the General Laws.

Section 3 Notice of every town meeting shall be given by posting attested copies of the warrant in at least two places in the town, which shall include the Town Hall and the Post Office on Central Street in Ashburnham, and in such other places as the Select Board shall determine and occasion require. The posting shall be done at least seven days before the date of the meeting.

Section 4 The Advisory Committee shall report in writing its recommendations at each Annual Town Meeting, which report shall be distributed with the annual Town Report. In case of Special Town Meetings the report and recommendations of the Advisory Committee shall be presented orally or in writing at such special Town Meetings, and whenever practicable shall be released for publication by the news service prior to such Special Town Meetings.

Section 5 As soon as practical after the adjournment of any Town Meeting on a vote to adjourn to another day, the Town Clerk shall cause a notice of the day and hour and place to which this adjournment was voted, together with the business to come before the meeting, to be posted as prescribed in Section 3 preceding.

*(Amended 10-29-13 STM by Art. 6, amended 5-1-04 ATM by Art. 28, amended 4-3-93 ATM by Art. 27, amended 6-20-92 STM by Art. 29, amended 10-1-91 STM by Art. JO, amended by 5-10-76 ATM, amended by 11-6-69 STMJ)*

### **CHAPTER III: GOVERNMENT OF TOWN MEETINGS**

Section 1 There shall be no quorum requirement for town meetings.

Section 2 In case of an attendance at a town meeting, which exceeds the capacity of the floor of the auditorium, the moderator shall appoint tellers who shall permit only registered voters to enter upon the floor of the auditorium. When the attendance at any town meeting exceeds the capacity of the floor and balcony of the auditorium, it shall be the duty of the moderator to make suitable provision so that every registered voter at the Town Hall may hear and participate in the proceedings.

Section 3 Articles in the warrant shall be acted upon in the order in which they appear in the warrant, unless otherwise determined by the vote of the meeting.

Section 4 All motions having to do with the expenditure of money shall be presented in writing. Other motions shall be in writing, if so directed by the moderator.

Section 5 No motion, the effect of which would be to dissolve the meeting shall be in order until every article in the warrant therefore has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the meeting to a stated time and place.

**Section 6** When a motion is before the meeting, the following motions, namely: to adjourn; to lay on the table; for the previous question; to postpone to a time certain; to commit; to amend; to postpone indefinitely; to pass over; shall be received, and shall have precedence in the foregoing order; and the first three shall be decided without debate.

**Section 7** When a question is put, the sense of the meeting shall be determined by a "YES" or "NO" ballot, provided a motion to that effect shall have been carried. Otherwise, the sense of the meeting shall be determined by the voices of the voters, and the moderator shall declare the vote as it seems to him. If the moderator is unable to decide such vote, or if his decision is immediately questioned by seven or more voters rising in their places for that purpose, he shall determine the vote by a display of hands, or rising vote, and shall appoint tellers to make and return the count.

**Section 8** No final vote which has been announced by the moderator shall be reconsidered, except upon motion for that purpose within one hour of the time which the vote was taken, provided however, that any vote taken during the last hour of a meeting which is adjourned to a time certain, may be reconsidered upon motion made during the first hour of the adjourned meeting. No question shall be reconsidered except by an order of two-thirds of the voters present and voting.

**Section 9** All questions of parliamentary procedure not covered by these by-laws shall be governed by "Town Meeting Time" a handbook of Parliamentary Law by Johnson, Trustman and Wadsworth.

**Section 10** On matters requiring a two thirds vote by statute a count need not be taken.  
(Amended 5-3-97 ATM, approved by Attorney General 7/21/97)

(Amended 11-17-10 STM by Art. 14, amended 5-14-86 ATM, amended 4-9-94 ATM by Art. 33)

## **CHAPTER IV: APPOINTIVE TOWN COMMITTEES AND BOARDS**

**Section 1** No person shall be appointed to a committee or board who is not a registered voter of the Town and domiciled in the town.

**Section 2** Anyone appointed to a committee or board who subsequently removes his domicile from town, shall automatically cease to be a member of said committee or board.

**Section 3** When anyone appointed to an appointive committee or board is absent repeatedly from duly called meetings, same shall be reported to the authority making the original appointment, who may declare that a vacancy exists.

**Section 4** Vacancies occurring on appointive committees and boards shall be filled by the authority making the original appointment.

Section 5 All committees shall report to the town unless otherwise specified by the town. If no report is made within a year of its appointment, a committee shall be discharged, unless in the meantime the town meeting shall vote otherwise. When an appointed committee reports to the town meeting, recommending action upon the matter referred to it, and a vote is taken thereon, such committee shall automatically be discharged, unless otherwise voted by the meeting.

## CHAPTER V: CAPITAL BUDGETING

5.1 The Select Board shall establish and appoint a committee to be known as the Capital Planning Committee, composed of one member of the Select Board, two members of the Advisory Board, one member of the Planning Board, the Town Treasurer/Collector and two citizens at large. The Town Accountant, Treasurer/Collector and Town Administrator shall be ex-officio, non-voting members of the Committee. The Committee shall choose its own officers.

5.2 The Committee shall study proposed capital projects and improvements involving major tangible assets and projects which: 1) have a useful life of at least three years; 2) have a dollar value of \$15,000 or greater. The following items shall be excluded from the capital plan: (1) One Police Cruiser, and (2) Fire Turnout Gear.

*(Amended 5-01-2018 ATM, approved by Attorney General 08/10/2018)*

5.3 The Committee shall develop policies and procedures, as necessary, to establish and maintain a capital improvement program.

5.4 All officers, boards and committees shall each year, on or before September 30<sup>th</sup> of each year, give to the Committee, on the forms prepared by it, information concerning all anticipated projects and capital requests requiring Town Meeting action during the ensuing five years. The Committee shall consider the existing and probable future needs of the town for public improvement and purchases of major equipment, their relationship to the probable future growth of the town, relative needs, impact, timing and cost of these expenditures and the effect each will have on the financial position of the town. No appropriation shall be voted for a capital improvement requested by a department, board or commission at an Annual Town Meeting, or at any Special Town Meeting, unless the Committee has first made a recommendation to such Annual Town or Special Town Meeting with respect to such proposed capital improvement unless the proposed capital improvement is considered in the Committee's report, or the Committee shall first have submitted a report to the Select Board explaining the omission.

5.5 The Committee shall prepare an annual report recommending a Capital Improvement Program for the next fiscal year, and Capital Improvement Program including recommended capital improvements for the following five fiscal years after that. The report shall be submitted to the Select Board for its consideration and approval by December 1<sup>st</sup> of each year. The Board shall submit its approved Capital Budget to the Annual Town Meeting for adoption by the town.

5.6 Such Capital Improvement Program, after its adoption, shall permit the expenditure on projects included therein of sums from departmental budgets for survey , architectural or engineering advice, options or appraisals; but no such expenditure shall be incurred on projects which have not been so approved by the town through the appropriation of sums in the cmTent year or in prior years, or preliminary planning for projects to be undertaken more than five years in the future.

5.7 The Committee's report and the Select Board's recommended Capital Budget shall be published and made available in a manner consistent with the distribution of the Advisory Board report. The Committee shall file its original report with the Town Clerk.

*(Amended 05-03-08 ATM by Art. 21)*

## **CHAPTER VI: ADVISORY COMMITTEE**

**Section 1** The Advisory Committee shall consist of seven members, each a registered voter and domiciled in the town, who shall be appointed by the moderator provided that no person who shall have the care, custody or disposal of town funds, or the care, custody or disposal of town property, either as a town officer, or member of any town committee, or an agent of such officer or town committee, shall be eligible to serve on said committee.

**Section 2** The Moderator of the Town shall within thirty days after the adjournment of every Annual Town Meeting appoint for a term of three years the number of persons, as may be necessary, to provide a committee of seven members, except that following the final adjournment of the Annual Town Meeting in 2004, the Moderator shall appoint two persons for one year terms two persons for two year terms each and three persons for three year terms each. The term of office of each member shall commence immediately upon qualification and shall expire upon the final adjournment of the Annual Town Meeting of the last year of such person's term of office. Said committee shall choose its own officers, shall serve without pay and shall cause to be kept a true record of its proceedings.

**Section 3** A vacancy caused by death, resignation or removal of domicile , in the membership of the Advisory Committee shall be filled as provided in Section 4, Chapter I V. Frequent non-attendance of any member shall be reported to the moderator, who may at his discretion, declare that a vacancy exists. The term of office of any person chosen to fill a vacancy shall be that of the person whom he replaces.

**Section 4** All articles in a warrant for any town meeting shall be referred to the Advisory Committee for its consideration. The Select Board, after drawing any such warrant, shall transmit a copy thereof to the said committee, which shall, after due consideration of the subject matter of all the articles, report thereon in writing to the voters, as prescribed in Chapter I I , Section 4, of these by-laws.

**Section 5** It shall be the duty of the Advisory Committee annually to consider the expenditure in previous years and the estimated requirements for the current fiscal year, which shall be submitted by the several officers, boards and departments of the town in such form and detail as shall be prescribed by said committee. Said committee shall make a report tabulating

such expenditures and estimates together with the amounts which, in its opinion, shall be appropriated for the current fiscal year, including such pertinent recommendations as it may deem appropriate, and its consideration of capital budgeting. Said report is to be distributed according to Chapter 11, Section 4, of these by-laws.

**Section 6** The Advisory Committee shall have authority at any time to investigate the books, accounts and management of any department of the Town, and to employ such expert and other assistance as it may deem advisable for that purpose and the books and accounts of all departments and officers of the Town shall be open to the inspection of the Committee and any person employed by it for that purpose. The Committee may summon the attendance of witnesses under General Laws, Chapter 233, Section 8, 10. The Committee may appoint sub-committees of its members and delegate to them such of its powers as it deems expedient.

*(Amended 05-01-04 ATM by Art. 27, amended 5-14-87 ATM, amended by 4-25-77 ATM)*

## **CHAPTER VII: CONTRACTS BY TOWN OFFICERS**

**Section 1** No officer of the town shall, in his official capacity make or pass upon, or participate in making or passing upon, any sale, contract or agreement or the terms of amount of any payment in which the town is interested and in which such officer has any personal financial interest, direct or indirect.

**Section 2** No town officer and no salaried employee of the town, or any agent of any such officer or employee shall receive any compensation or commission for work done by him for the town, except his official salary and fees allowed by law, without permission of the Select Board expressed in a vote which shall appear on the records, with the reasons therefore.

**Section 3** No contract involving an obligation of the town in excess of (\$1,000) one thousand dollars shall be binding on the town unless it is in writing and is signed by the Town Accountant whose signature shall indicate that funds are duly appropriated and available to pay for the contract, and by the Town Administrator. No contract involving an obligation of the Town in excess of (\$10,000) ten thousand dollars shall be binding unless it is in writing and signed by the Town Accountant whose signature shall indicate that funds are duly appropriated and available to pay for the contract, and by the Town Administrator, and by the majority of the Select Board or other Board or Committee duly authorized to have control over the appropriation.

**Section 4** On all contracts with the town for labor, supplies, materials, machinery or equipment, the estimated cost of which exceeds twenty-five thousand dollars (\$25,000), a bond of an approved surety company, or other security, in amount equal to the estimated contract price, conditioned upon full and faithful performance of the contract, shall be posted by the contracting party.

**Section 5** No board, committee or officer shall make any contract on behalf of the town, the execution of which shall necessarily extend beyond one year from the date thereof,



except as otherwise provided by law, unless specific authority to do so has been given by vote of the town.

Section 6 No contract shall be awarded for any work or service to be performed for the town, other than professional service or service performed by a person regularly employed by the town as part of the duties of such employment and no purchase of apparatus, materials, supplies or equipment shall be made; the estimated cost of which in any case is twenty-five thousand dollars (\$25,000) or more, unless competitive bids have been obtained therefore. Such bids shall be invited by invitation to prospective vendors, contractors or other qualified persons when considered necessary to insure fair competition, and by public advertisement by at least two insertions in a newspaper of local circulation, on two consecutive weeks, the last publication to be at least one week before the opening of said proposals. Such advertisements shall state the time and place where plans and specifications of proposed work or purchases of apparatus, supplies or materials may be had, and the time and place for opening the proposals in answer to said advertisement, and shall reserve the right of the town to reject any or all of such proposals, and to accept such proposal as may seem for the best interest of the town. All bids shall be opened in public. No contract or preliminary plans and specifications therefore shall be split or divided for the purpose of evading the provisions of this section.

Section 7 All regular employees of the Town Departments, excluding the School Department, shall be entitled to personal leave not to exceed a maximum of three days per fiscal year and granted at the start of the fiscal year. All regular employees shall be entitled to sick leave not to exceed a maximum of 12 days in a fiscal year and accrued at a rate of one day per month. Sick time shall be cumulative to a total not to exceed 120 days and upon death or retirement an employee or his legal spouse shall be rebated at 50%. All regular employees are entitled to be paid for all legal holidays, not to exceed 12 days.

*(Amended 4-7-01 ATM, amended 4-3-93 ATM by Art. 9, amended 4-11-90 ATM by Art. 38, amended 4-17-86 ATM, amended 4-15-81 ATM, amended by 3-7-70 ATM)*

## **CHAPTER VIII: RECORDS AND REPORTS**

Section 1 All officers, boards and committees of the town shall cause minutes of their doings and of their meetings, and also accounts, to be kept in suitable books. Said books shall regularly be kept in appropriate places, except when in the custody of an authorized official. Such books shall, unless otherwise provided by law be open to public inspection at any reasonable time, but shall remain, during such inspection at any time, under the supervision of the officer, board, or committee having custody thereof. In addition, all such officers, boards and committees shall file with the Town Clerk copies of all meeting minutes within 10 days from approval thereof.

Section 2 All officers, boards, standing committees and special committees of the town having the expenditure of town money shall report annually in writing, in such manner as to give the citizens a clear understanding of the objects and methods of such expenditures referring however to the report of the Town Treasurer for statements in detail of receipts and

payments. These reports may contain such recommendations as may be deemed proper. Such reports shall be submitted to the S e l e c t B o a r d for inclusion in the annual town report on or before the first day of February each year.

Section 3 The annual town report shall contain, in addition, to the reports of officers, boards and committees as hereinbefore provided, a detailed report of all moneys received and paid out of the town treasury in the financial year next preceding showing separate payments made from the proceeds of loans as capital outlays for permanent improvements; the report of tax receipts, payments and abatements; statement of all funds belonging to the town or held for the benefit of its inhabitants; a statement of the liabilities of the town in bonds, notes, certificates of indebtedness, or otherwise, and of indebtedness authorized but not incurred, and the purpose thereof; a statement made to or from any appropriation; a record of the meetings of the town held since publication of the last annual town report; and such matters as the said report is required by law to contain, or as may be inserted by the Select Board under the discretion granted them by law.

Section 4 The Select Board or the town may direct that the assessors' valuation lists, the by-laws, and standing votes of the town, and the rules and regulations adopted by any officer, board or committee be printed either separately or as a part of the annual town report.

*(Amended 11-17-10 ATM by Art. 14, amended 05-03-08 ATM by Art. 26))*

## **CHAPTER IX: LEGAL AFFAIRS**

Section 1 The Town Administrator shall be agents of the town and with approval of the Select Board may institute, prosecute and defend any and all claims, actions and proceedings to which the town is a party, in which the interests of the town are or may be involved.

Section 2 The Select Board may, at their discretion, compromise or settle any claim or suit to which the town is a party, which does not require the payment by the town of an amount in excess of ten thousand dollars (\$10,000). No settlement or claim or suit obligating the town in an amount in excess of ten thousand dollars (\$10,000), shall be made, except as authorized by law, without the consent of the town meeting.

Section 3 The Select Board shall state in their annual report what actions have been brought against and on behalf of the town, what cases have been compromised or settled, and the current standing of all suits at law involving the town, or any of its interests.

Section 4 The Select Board shall appoint a person who is a member of the bar in good standing, to serve as town counsel for the term of one year from the first day of April following and until his or her successor is appointed and enters on the performance of his or her duties. They shall likewise fill any vacancy in said office for the unexpired term, and may employ special counsel whenever, in their judgment, necessity therefore arises.

Section 5 It shall be the duty of the town counsel to attend each town meeting, to conduct the prosecution, defense or compromise of claims, actions and proceedings to which the

town is a party, and the prosecution of action or proceedings by or on behalf of any town officer, board or committee as such; to conduct the defense of any action or proceedings brought against any town officer, board or committee as such, when the Select Board, having determined that any rights or interests of the town are or may be involved therein, shall so request; to conduct proceedings brought against the assessors before the Board of Tax Appeals; to assist in the prosecution of complaints for the Board of Tax Appeals; to assist in the prosecution of complaints for violation of any by-law of the town when requested so to do by the board or officer enforcing the same; to examine and report upon titles to all land to be acquired by the town; to prepare or approve contracts, bonds, deeds and other legal instruments in which the town is a party or in which any right or interest of the town is involved; to appear at any and all hearings on behalf of the town whenever his/her services may be required; and generally to advise and act for the town officers, boards and committees upon and in legal matters touching the duties of their respective offices. No contract, bond, deed or other legal instrument to which the town is a party or in which any right or interest of the town is involved shall be binding upon the town unless it is approved as to form by the town counsel in writing.

*(Amended 11-17-10 ATM by Art. 14)*

## **CHAPTER X: JUNK AND SECOND HAND DEALERS AND COLLECTORS**

**Section 1** The Select Board may license suitable persons to be collectors of or dealers in junk and keepers of shops for the purchase, sale or barter of junk, old metal, used cars, and other second hand articles, and may make such additional rules, regulations and restrictions as they may deem necessary, not inconsistent with the law or of these by-laws.

**Section 2** Every keeper of such a shop shall put up and maintain in a suitable and conspicuous place in his shop, a sign having his name and occupation legibly inscribed thereon in large letters.

**Section 3** Every shop for the sale, purchase or barter of junk, old metals, used cars or other second hand articles shall be closed between the hours of 8:00 p.m. and 7:00 a.m. and no keeper thereof and no junk collector shall purchase any of such articles between said hours.

**Section 4** Such shops, and any place, vehicle or receptacle used for collecting and keeping of such articles and all articles of merchandise therein, may be examined at all times by the Select Board or by any police officer of the town, or by any other person authorized by the Select Board.

**Section 5** Every keeper of a shop for the sale, purchase or barter of junk, old metals, used cars or other second hand articles, shall keep a book in which shall be written at the time of each purchase, a description thereof, the name, age and residence of the person from whom, and the day and hour when purchase was made; and such book shall at all times be open to inspection of the Select Board, or of any person by them or by law authorized to make such an inspection.

**Section 6** No keeper of such a shop and no collector of junk shall directly or indirectly purchase or receive by way of barter or exchange from a minor any of the articles mentioned in Section 1 of this Chapter.

**Section 7** No person or entity, corporate or otherwise, as owner or as one in control of premises, shall keep in the open any junk motor vehicle as defined in the following section, without being licensed to do so under this by-law.

**Section 7A** For the purpose of this by-law, a junk motor vehicle shall be one which is worn out, cast off, or discarded and which is ready for dismantling or destruction, or which has been collected or stored for salvage, or for stripping in order to make use of parts thereof. Any parts from such a vehicle shall be considered junk motor vehicle under this by-law.

**Section 7B** A license to keep no more than two (2) junk motor vehicles shall be requested from the Chief of Police who may issue said license under the terms and standards set forth in Section 7D of this by-law. The refusal to grant such license may be appealed to the Select Board within ten (10) days of such refusal.

**Section 7C** The Select Board shall hold a public hearing upon such appeal, notice of which shall be given by publishing in a newspaper having general circulation in the Town, five (5) days at least before the date of the hearing. The cost of publishing shall be paid by the applicant.

**Section 7D** The Select Board may grant a license for not more than one (1) year to keep such junk motor vehicles in the open after a public hearing has been held and said Board determines that the keeping of the same will not depreciate property values in the area, will not create a hazard to the public safety or will not become a public nuisance. Renewals of said licenses shall be granted only after the procedure set forth above is followed.

**Section 7E** No provisions contained herein shall apply to premises for which a Class III license has been granted under Chapter 140, Section 58.

**Section 7F** Any person or entity who violates this by-law shall be liable to a fine of fifty dollars (\$50.00) for each day said violation continues.

*(Amended 11-17-10 ATM by Art. 14, amended by 6-18-73 STM, amended by 3-7-70 ATM, amended by 3-11-67 ATM )*

## **CHAPTER XI: USE OF PUBLIC WAYS AND PLACES**

**Section 1** No person or other entity shall dig up, alter or obstruct any portion of any Town road, or way or any way that the town is responsible for maintenance, without first obtaining a Road and/or Sidewalk Opening Permit.

No person or other entity shall construct a driveway or curb cut exiting onto a Town road or way or other way that the town is responsible for maintenance, without first obtaining a Driveway Pennit.

Anyone who violated the provision of Chapter XI, Section I of the Town of Ashburnham's General Bylaw shall be punished by a fine of three hundred dollars (\$300). Each day of violation shall constitute a separate offense.

- a. Road and/or Side wal k Opening Pennits shall be issued by the Superintendent of Highway/Parks, and Grounds or his designee and shall be obtained before any obstructing, cutting, digging up, or altering in any Town road or way, or sidewalk and right of way or any way the Town maintains .

The Superintendent of Highway /Parks, and Grounds or his/her designee, shall adopt, and may, from time to time, amend reasonable design standards and fomn for Road and/or Sidewalk Openings to include fees and surety requirements with the approval of the Select Board.

- b. Driveway permits shall be issued by the Superintendent of High way/Parks , and Grounds or his/her designee, and shall be obtained prior to construction of any and every new driveway , curb cut or alteration of any existing driveway at its intersection with the boundary line of any public street or way or any way the town maintains , including sidewalks and any rights of way.

The Superintendent of Highway/Parks, and Grounds or his/her designee with assistance from the Planning Board shall adopt, and may from time to time , amend reasonable design standards and forms for driveways to include fees and surety requirements, with the approval of the Select Board.

Section 2 Any person moving a building , strncture or material or anything liable to obstruct passage along the highway, must apply for a permit to the Select Board, in the same manner as provided in Section 1, and no permit shall be granted by the Select Board if said movingwill cause destruction or seriou injury to any tree or shrub standing on the highway, or ownedby an abutter without written consent of that abutter .

Section 3 Any person who secures a pennit under regulations in Section 1 and 2 herein, shall execute a written agreement to save harmless the town against all damage, costs, or claims or by reason of any process, civil or crim inal , on account of such excavation or obstruction and shall obey all requirements or limitations imposed by the Select Board, in respect to barriers and maintenance of lights, and the taking of other precautions for the safety of travelers on the highway .

Section 4 No person shall remove a barrier or light placed on any public way for the safety of travelers.



Section 5 No person shall place rubbish, garbage, bottles, cans, nails or any substance dangerous to persons or vehicles on any public way.

Section 6 Any person owning a building so situated and constructed that snow or ice on the roof or other portion thereof would fall or slide to, on or in any sidewalk, street, road, way or other public place, shall cause suitable snow guards or barriers to be attached or erected on such roof or other portion of such building or take other suitable measures to prevent the fall or sliding of snow or ice therefrom.

Section 7 No person shall shovel or throw snow or ice into that portion of any public way, which is open to travel. No person shall pump or direct water so that it runs in or on to any public way.

Section 8 Any person who owns a building, the sewage from which flows in any amount off his property and onto, across or underneath any sidewalk, public place or waterway, shall be required to take such action as is necessary to confine the sewage from his own building to his own property, unless he can secure a written agreement from the Select Board, the Highway Department, or from an adjacent landowner, to allow such sewage to enter such adjacent property.

Section 9 No person who owns or has the care of domestic animals of the grazing type shall permit such animals to graze on any highway common or other public place, or to go at large, without proper restraint.

Section 10 Deleted by Special Town Meeting November 17, 2010.

Section 11 No person may fire or discharge any firearm nor shoot a bow and arrow nor use a sling shot within 200 feet of a paved highway or public property, nor on any private property, except with the consent of the owner thereof, except that a shotgun may be discharged while hunting, if otherwise lawful, without the landowner's permission; provided however that this by-law shall not apply to the use of any weapons at any military exercise, or in the lawful defense of the person, family or property of any citizen, nor in any act of duty required or justified by law.

Section 12 No person, unless lawfully authorized, shall set up, take down, cut or destroy any tree, post, fence, edgestone, stonewall or any part thereof in or on any street, highway, square or other public place in town, or on any property owned or controlled by the town, without a permit from the Select Board. In the case of scenic roads, anyone wishing to change the scenery on such a road must also obtain written permission from the Planning Board in accordance with G.L. c. 40, Section 15C. Any person or entity that violates this Section shall be liable for a fine of three hundred (\$300) dollars. Each day of violation shall constitute a separate offense.

Section 13 No person, unless required or permitted to do so, shall make any marks, letters or figures of any kind, or affix in any manner any sign, advertisement or placard, bill, picture or notice, or anything of like nature upon or against any wall, fence post, ledge, store,

building or other structure, without permission of the owner, thereof, not upon any side walk , bridge, guide post, electric light or telephone pole or fence adjoining any public way, or upon any property belonging to the town, without permission of the Select Board

Section 14 No person shall place , deposit or cause to flow in any well, stream, pond, lake or any other body of water in the town, any glass, metal or any article, material or substance, or liquid, liable to cause injury or pollute the same in any manner.

Section 15 No person shall deposit papers, circulars , or advertising matter of any kind in the public ways of the town , not distribute the same through the town in such manner as to create a disturbance or litter.

Section 16 No person or group of persons shall obstruct or impede the movement of traffic on any sidewalk, street or road, or prevent access to any public or private building adjacent to said sidewalk, street or road. Any person doing so and who refuses to move on the direction of a police officer shall be subject to a fine of one hundred dollars (\$100.00).

Section 17 The Select Board shall from time to time, as they may deem necessary, make such regulations and rules for parking vehicles and for traffic, as is essential for the public safety and convenience.

Section 18 The Select Board shall make rules and regulations for the operation of motor boats upon rivers, ponds and lakes of the town to the end that such motor boats shall not be operated in a manner which endangers the safety of the public, or is detrimental or injurious to the neighborhood, or to the value of property therein; and shall provide penalties for the breaking of such rules and regulations.

Section 19 No person shall drink any alcoholic beverages as defined in General Laws Chapter 138, Section 1, or have in his possession any open container thereof while in any public park or on any playground or athletic field, to which the public has a right of access or on any public way. All alcoholic beverages used in violation of this by-law shall be seized and held until final adjudication of the charge against the person summoned before the Court, at which time they shall be returned to the person lawfully entitled to their possession. Any violation of this by-law shall be punished by a fine of fifty dollars (\$50).

Section 20 Anyone who violates the provisions of Chapter 40, Section 15C of the Massachusetts General Laws concerning the designation and improvement of scenic roads shall be punished by a fine of three hundred dollars (\$300). Each day of violation shall constitute a separate offense.

*(Amended 11-17-10 ATM by Art. 1, amended 5-10-06 ATM by Art. 34, amended 4-11-90 ATM by Art. 40, amended 5-14-87 ATM, amended by 4-12-78 ATM, amended by 5-19-75 ATM, amended by 3-11-72 ATM)*



## CHAPTER XII: NEW CONSTRUCTION

**Section 1** No person shall commence any new construction whose cost is estimated to exceed thirty-five hundred (\$3,500) dollars in value in any calendar year until such proposed construction shall have been reported to the Board of Assessors on such form as they may prescribe.

**Section 2** The term " new construction" shall be held to include any structural alteration or improvement of an existing structure , but shall not include maintenance work, plumbing, electrical or heating changes.

**Section 3** Whoever violates the provisions of the foregoing section shall be subject to a fine of two hundred and fifty (\$250) dollars for each offense.

**Section 4** The Town Administrator shall annually appoint an inspector of gas piping and gas appliances in buildings, who shall hold office for one year or until his successor is appointed , and whose compensation shall be fixed by said Select Board. Said inspector shall be a licensed gas fitter and shall enforce the rules and regulations adopted by the Board established under Section H. of Chapter Twenty-five of the General Laws.

### **Section 5. Stretch Energy Code**

§ 5-1 Definitions

5-2 Purpose

§ 5-3 Applicability

§ 5-4 Stretch Code

§5-1 Definitions

**International Energy Conservation Code (IECC)** - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

**Stretch Energy Code** - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 8<sup>th</sup> edition Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

§5-2 Purpose

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for both new construction and existing buildings.

#### §5-3 Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13 34, 51, as applicable.

#### §5-4 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Ashburnham General Bylaws, Chapter 12.

The Stretch Code is enforceable by the Inspector of Buildings or Building Commissioner.

*(Amended 11-17-10 ATM by Art. 14, amended 10-29-13 STM by Art. 7)*

## **CHAPTER XIII: PROTECTION OF WELLS**

Section 1 Any owner of land on which is located, to his knowledge, an abandoned well or well in use, shall either provide a covering for such well capable of sustaining a weight of three hundred pounds or fill the same to the level of the ground.

Section 2 The penalty for violation of the foregoing by-law shall be a fine of not less than one hundred (\$100) dollars nor more than five hundred (\$500) dollars.

## **CHAPTER XV: COUNCIL ON AGING**

### **Section I - Name**

- a. The name of this organization shall be the Ashburnham Council on Aging, hereafter referred to as the Council.
- b. The address of the Council shall be P.O. Box 292, Ashburnham, MA 01430. All mail shall be delivered to this address unless another shall be specified by the officers of the Council.

### **Section II - Purpose**

The purpose of the Council shall be to pursue the following objectives:

- a. To identify the total needs of the elderly population of the community;

- b. To educate the community and enlist support and participation of all citizens about their needs ;
- c. To design, advocate , and/or implement services to fill these needs ;
- d. To cooperate with the Massachusetts Executive Office of Elder Affairs and the Central Massachusetts Area Agency on Aging, and to be cognizant of State and Federal legislation and programs regarding elders.

### Section III - Membership

- a. The Council shall consist of a minimum of seven (7) voting members and a maximum of eleven (11). Other interested persons may attend the meetings and express their opinions but shall not have voting privileges .
- b. Membership on the Council shall be open to all Ashburnham citizens, provided that at least fifty-one percent shall be elders (persons sixty years of age or older).
- c. Prospective members shall be nominated by a majority of the existing members of the Council, and no person so nominated is to serve on the Council until appointed by the Town Administrator.
- d. Such persons shall be appointed on a rotating basis, so that no less than three (3) members shall be appointed annually, each for a period of three years.
- e. All members shall be sworn in by the town clerk within seven days of their appointment.
- f. After a three-year term, former voting members may be reappointed.

### Section IV - Meetings

- a. Regular meetings of the Council shall be held once per month. Should a postponement become necessary, due for example in clement weather or a legal holiday , each member shall be notified.
- b. Special meetings of the Council may be called by the Chair, or by the request of three members. Due notice must be given to each member at least three (3) days prior to the scheduled special meeting.
- c. The Annual meeting of the Council shall be held on the second Monday in May. Notice of the annual meeting and the time and place where it is to be held shall be sent to each member not less than ten days before the meeting. Notices informing the community of the annual meeting shall also be made.

- d. Quorum: At all meetings of the Council , the presence of a simple majority of the total membership shall constitute a quorum. Votes shall be cast only by members in attendance.
- e. Conduct of Meetings: All meetings shall be conducted in accordance with Robert's Rules of Order and Open Meeting Law.
- f. Resignation: In the event that a member wishes to resign from the Council, he /she shall notify the Council and the Town Administrator in writing.
- g. Attendance: Regular attendance is expected of all members . If a member is absent for three (3) consecutive meetings , except for reasons of health or extenuating circumstances duly reported to the Chair in advance of Council meetings , the Council may request the resignation of that member. Six absences during any calendar year constitute an automatic dismissal from the Council.

## Section V - Officers

### Part 1

- a. The officers of the Council shall consist of a Chair, Vice Chair, Secretary and Treasurer.
- b. The officers shall be elected at the annual meeting of the Council, and shall take office upon election.
- c. Vacancies in offices shall be filled by Robert's Rules.

### Part 2 - Chair

The Chair shall be the chief executive officer of the Council and subject to the direction of the Council shall have charge of the business affairs and property of the Council. He/she shall prepare an agenda, preside at all meetings of the members, appoint all committees, be an ex-officio member of all committees .

### Part 3 - Vice Chair

During the absence or disability of the Chair, the Vice Chair shall exercise all the functions of the Chair , and when so acting, shall have all the powers and be subject to all restrictions of the Chair.

### Part 4 - Secretary

The Secretary shall:

- a. Record all the proceedings of the meetings of Council.

- b. Cause all notices to be given in accordance with the by-laws and as otherwise may be required.
- c. Perform all duties relevant to the office of Secretary.
- d. Forward the Annual Report of the Council to the Town Administrator.

#### Part 5 - Treasurer

The Treasurer shall:

- a. Keep all books of accounts of all the business and financial transactions of the Council and submit vouchers to the Town Accountant for payment of bills.
- b. Render to the Chair and the members a monthly statement of the financial condition of the Council.
- c. Assist in preparing an annual budget for submission to the Council for approval and to the Town Administrator.

#### Part 6 - Staff

- a. The Council shall have the power and authority to appoint or employ any clerical or other assistance it may require in the discharge of its duties .
- b. No individual member of the Council shall make requests of the staff or assign duties.

*(Amended 4/9/94 ATM by Art. 43)*

## CHAPTER XVI: MUNICIPAL DOG CONTROL LAW

Section 1 Licensing of Dogs: The owner or keeper of any dog shall license such animals in accordance with the provisions of General Laws, Chapter 140, Section 137-139 inclusive except that fees for such licenses shall be set by the Select Board.

For dog licenses that are not renewed by June 1<sup>st</sup>, the fee schedule shall be set by the Board of Selectmen.

Section 2. Definition of Terms: As used in this by-law , unless the context indicated otherwise :

- a. "Dogs" shall mean all animals of the canine species, both male and female.

- b. "Owner" shall mean any person or persons, firm, association or corporation owning, keeping or harboring a dog as herein defined.
- c. "Keeper" shall mean any person, corporation or society, other than the owner, harboring or having in his possession any dog.
- d. "Run at Large" shall mean free to wander on public or private ways at will, or on the property of another.
- e. "Dangerous dog", a dog that either; (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.
- f. "Nuisance dog", a dog that; (i) by excessive barking or other disturbance is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or (iii); barking, whining or howling in an excessive, continuous or untimely fashion, (more than 10 minutes in any hour overnight between the hours of 10:00 p.m. and 7:00 a.m. or for more than 15 minutes in any hour during the day between 7:01 a.m. and 9:59 p.m.; or (i) has threatened or attacked livestock, a domestic animal or a person, including threatening or attacking passersby or passing vehicles including bicycles but such threat or attack was not a grossly disproportionate reaction under all the circumstances; (v) trespassing on school grounds or other public or private property or damaging public or private property.

Section 3. Permitting a Dog to Run at Large: No owner or keeper of a dog shall permit such dog, whether licensed or unlicensed, to run at large within the Town of Ashburnham, except that a dog may, for the purpose of sporting events, (such as hunting, field trials or training purposes) or for agricultural assistance, or while working as a canine guard of mercantile, commercial or industrial establishment, be exempt from the restraining order during such period of time as the dog is actually engaged in the event, sport, agricultural function, or guard work.

(3A) Dogs may be taken from the owner's premises provided that such dogs are on a leash.

(3B) Owners are responsible to collect and properly dispose of excrement deposited by their dog on property other than the owner's.

Section 4. Impounding: It shall be the duty of the Dog Officer, duly appointed, to apprehend any dog found unrestrained and running at large, and to impound such dog in a suitable place or to order the owner or keeper thereof to restrain said dog.

Section 4A. Nuisance or Dangerous Dogs: The owner or keeper of a dog shall be prohibited from allowing a dog to be dangerous or a nuisance.

Section 5. Notice to Owner and Release: If such dog so impounded has upon it the name and owner thereof, or if the name of said owner is otherwise known, then the Dog Officer shall immediately notify the owner and if the owner is not known, then no notice shall be necessary. The owner of any dog so impounded may reclaim such dog upon payment of the sum of ten dollars (\$10.00) for the first reclaiming, for each twenty-four hour period or any part thereof, that the dog is held thereafter, the sum of twenty-five dollars (\$25.00) for the second and subsequent reclaimings for each twenty-four period or any part thereof that the dog is held thereafter, however, if the dog is not licensed that before release to any person, a license as required by the Town of Ashburnham be secured.

Section 6. Disposition of Funds: The sums collected pursuant to the provisions of this by-law shall be accounted for and paid to the Town Treasurer, however, under the provisions of the State Law, the Dog Officer shall be entitled to all fees paid to him for the care of impounded dogs by the owners thereof.

Section 7. Disposition of Unclaimed Dogs: Any dog which has been impounded and has not been redeemed by the owner within ten (10) days shall be disposed of as provided by Section 152, Chapter 140 of the General Laws of the Commonwealth of Massachusetts and any amendment thereto.

Section 8. Penalty: Any owner found in violation of any of the provisions of this by-law shall be subject to a fine in accordance with the following schedule:

1 <sup>st</sup> Offense:	Twenty-five (\$25.00) Dollars
2 <sup>nd</sup> Offense in any 12 month period:	Fifty (\$50.00) Dollars
3 <sup>rd</sup> Offense in any 12 month period:	Seventy-five (\$75.00) Dollars

Further, if the owner or keeper of a dog be a minor, the parent or guardian of such minor shall be held liable for any violation of this by-law.

Section 9. Enforcement: The Dog Officer or any duly appointed law enforcement officer of the Town shall enforce the provisions of this by-law relating to dogs, and shall attend to all complaints or other matters pertaining to dogs in the Town of Ashburnham.

Section 10: Alternative Procedures under General Laws, Chapter 140, Section 173A.

(10A) Notwithstanding any provisions of the General Laws to the contrary, any Dog Officer who takes cognizance of a violation of

- (A) This by-law
- (B) Failure to license dogs pursuant to General Laws, Chapter 140, Section 137, failure to acquire kennel license pursuant to General Laws, Chapter 140, Section 137A
- (C) Failure to vaccinate against rabies pursuant to General Laws, Chapter 140, Section 145B.

May issue *or* mail a Notice of Complaint of Violation of Municipal Dog Control Law to the owner or keeper of such dog or dogs, and if the owner or keeper of such dog or dogs is a minor, the parent or guardian of such minor shall be liable for any violation of the by-law.

(1 OB) Any owner or keeper found in violation of the above mentioned procedures shall be subject to a fine of twenty five dollars (\$25.00). If the owner or keeper of a dog or dogs is a minor, the parent or guardian of such minor shall be held liable for any violation of this by-law.

(10C) The procedure set forth above shall also include the provisions of paragraphs 2-4 of General Laws, Chapter 140, Section 173A as amended.

Section 11: Effective Date: This by-law shall take effect upon its passage by the Town Meeting and approval by the Attorney General's office.

Section 12: Where any owner violates, or continues to violate, any provision of this Section, resulting in legal action by the Town, the Town may recover reasonable attorney's fees, court costs, and other expenses associated with such enforcement, including the cost of any actual damages incurred by the Town.

*(Amended 10-29-13 STM by Art. 9, amended 11-17-10 ATM by Art. 14, amended 5-7-05 ATM by Art. 36, amended by 4-7-01 ATM, amended by 5/6/95 ATM, amended by 4-11-90 ATM by Art. 37, amended by 4-10-85 ATM, amended by 2121184 STM, adopted by 4-15-81 ATM)*

## **CHAPTER XVII: REVOCATION OR SUSPENSION OF LOCAL LICENSES**

- a. The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each department, board, commission, or division, hereinafter referred to as the Licensing Authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the Party, that has neglected or refused to pay any local taxes, fees, assessments, betterments, or other municipal charges for not less than a twelve month period, and that such Party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.
- b. The Licensing Authority may deny, revoke or suspend any license or permit including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the Party and the Tax Collector, as required by applicable provisions of law, and the Party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation, or suspension of said license or permit to any Party. The Tax Collector shall have the



right to intervene in any hearing conducted with respect to such license denial, revocation, or suspension. Any findings made by the Licensing Authority with respect to such license denial, revocation, or suspension shall be made only for the purpose of such proceeding and shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation, or suspension. Any license or permit denied, suspended, or revoked under this section shall not be re issued or renewed until the Licensing Authority receives a certificate issued by the Tax Collector that the Party is in good standing with respect to any and all local taxes, fees, assessments, betterments, or other municipal charges payable to the municipality as of the date of issuance of said certificate.

- c. Any Party shall be given an opportunity to enter into payment agreement, thereby allowing the Licensing Authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- d. The Select Board may waive such denial, suspension, or revocation if it finds there is not direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight, in the business or activity conducted in or on said property.
- e. This section shall not apply to the following licenses and permits granted under the General Laws of the Commonwealth of Massachusetts; open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes; section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty nine; clubs, associations dispensing food or beverage license, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven; and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

*(Adopted by 12-9-87 STM)*

## CHAPTER XVIII: DEMOLITION DELAY

### DEFINITIONS:

1. Commission - Ashburnham Historical Commission
2. Building - any structure built for the support, shelter or enclosure of persons, animals, goods or property of any kind.
3. Demolition - any act of pulling down, destroying, removing or razing a building or any portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.
4. Demolition Permit - the permit issued by the Building Inspector as required by the State Building Code for the demolition, partial demolition or removal of a building or structure.
5. Significant Building- any building or portion hereof which:
  - a. in whole or in part was built fifty (50) or more years prior to the date of the application for demolition permit or is of unknown age; or
  - b. is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application on said National Register; or
  - c. is included in the Historical Survey and Inventory prepared for the Town by Commonwealth Collaborative or the Ashburnham Historical Commission including those buildings listed for which complete surveys may be pending; or
  - d. is importantly associated with one or more historic persons or events, or with the broad architectural, political, economic or social history of the Town or the Commonwealth; or
  - e. is historically or architecturally significant (in terms of period, style, method of building construction or association with a famous architect or builder either by itself or in the context of a group of buildings).
6. Preferably-Preserved - Any historically significant building or structure which because of the important contribution made by such structure to the Town's historical and/or architectural resources, is in the public's interest to preserve, rehabilitate or restore.

### PROCEDURE:

1. The Building Inspector shall forward a copy of each demolition permit application for a building or structure to the Ashburnham Historical Commission within seven (7)

days of the filing of such application. No demolition permit shall be issued at that time.

2. Within fourteen (14) days from its receipt of a demolition permit application the Commission shall determine whether the building is historically significant. If the Commission decides that the building or structure is not historically significant, the Commission shall so notify the Building Inspector in writing and the Building Inspector may issue the permit. If the Commission determines that the building or structure is historically significant, the Commission shall notify the Building Inspector in writing. The demolition plan review must be made prior to the issuance of any demolition permit. If the Commission fails to notify the Building Inspector of its determination within fourteen (14) days of its receipt of the application, then the building or structure shall be deemed not historically significant and the Building Inspector may issue the permit.
3. If the determination is positive and a demolition plan review is deemed necessary, the Commission shall fix a reasonable time for public hearing on the application and shall give public notice thereof by publishing notice of the time, place and purpose of the hearing and also within seven (7) days of said hearing, mail a copy of said notice to the applicant, to the owners of all property deemed by the Commission to be affected thereby as they appear on the most recent local tax list, and to such other persons as the Commission shall deem entitled to notice. The applicant for the permit shall be entitled to make a presentation to the Commission of said hearing if so desired.
4. If, after such hearing, the Commission determines that the demolition of the significant building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector within ten (10) days of such determination. Upon receipt of such notification, or after the expiration of fifteen (15) days from the date of the closing of hearing without receiving notification from the Commission, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, rules, and regulations, issue the demolition permit.
5. If the Commission determines that the demolition of the significant building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered a preferably-preserved significant building. The Commission shall notify Massachusetts Historical Commission, the Ashburnham Planning Board and other interested parties requesting assistance in preservation funding and adaptive reuses.
6. Upon determination by the Commission that the significant building which is the subject of the application for a demolition permit is a preferably-preserved significant building, the Commission shall so advise the applicant and the Building Inspector and no demolition permit is a preferably-preserved significant building, the Commission shall so advise the applicant and the Building Inspector and no demolition permit may

be issued until at least six (6) months after the date of such determination by the Commission.

7. Notwithstanding the preceding sentence. The Building Inspector may issue a demolition permit for a preferably-preserved significant building at any time after receipt of written advice from the Commission to the effect that either:
  - a. The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or
  - b. The Commission is satisfied that for at least six (6) months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore subject building, and that such efforts have been unsuccessful.

#### EMERGENCY DEMOLITION:

Nothing in this ordinance shall restrict the Building Inspector from immediately ordering the demolition of any building in the event of an imminent danger to the safety of the public.

#### ENFORCEMENT AND REMEDIES:

1. The Commission and Building Inspector are both authorized to institute any and all proceedings in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this by-law, or to prevent violation thereof.
2. No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this by-law for a period of two (2) years after the date of completion of such demolition. As used herein, "premises" refers to the parcel of land upon which the demolished building was located and all adjoining parcels of land under common ownership or control.

#### SEVERABILITY:

If any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court, every section, paragraph or part shall continue in full-force and effect.

#### REVIEW AND APPEAL:

Any person aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the Town Clerk for a review by the Zoning Board of Appeals.

The finding of the Zoning Board of Appeals shall be filed with the Town Clerk within forty-five (45) days after the request and shall be binding on the applicant and the Commission.  
*(Adopted 4-22-91 ATM by Art. 44)*

## **CHAPTER XIX: RECYCLING**

Purpose: It is the purpose and intent of this by-law to require that recycling in the Town of Ashburnham be conducted in the same manner and include the materials and method of disposition as set forth by the Commonwealth in its regulations promulgated by the Department of Environmental Protection (DEP) in order to insure orderly and organized recycling in the Town in accordance with State Law.

Section 1 All residents of the Town shall recycle materials as determined by DEP and set forth in 310 Code of Massachusetts Regulations 19.17, as amended from time to time.

Section 2 All commercial haulers providing residential collection of solid waste within the Town of Ashburnham shall recycle materials as determined by DEP and set forth in 310 Code of Massachusetts Regulations 19.17, as amended from time to time. Said commercial haulers shall be subject to all inspections by appropriate town officials as may from time to time be ordered, in writing, by the Select Board.

*(Adopted 4/3/93 ATM by Art. 38)*

## **CHAPTER XX: RULES AND REGULATIONS FOR MUNICIPAL SEWER COLLECTION DISPOSAL SYSTEM**

TOWN OF ASHBURNHAM MASSACHUSETTS

By Vote January 2, 1996

By: Board of Water/Sewer Commission

(Passed by Attorney General 7/21/97)

RULES , REGULATIONS AND DEFINITIONS COVERING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS , THE INSTALLATION AND CONNECTION OF BUILDING SEWERS AND THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM(S) AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF IN THE TOWN OF ASHBURNHAM AS ESTABLISHED BY THE WATER/SEWER COMMISSION OF THE TOWN OF ASHBURNHAM.

### **SECTION 1 - GENERAL PROVISIONS**

#### **1.1 Purpose and Policy**

These rules and regulations set forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the Town of Ashburnham and enables the Town to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code 1251 et seq), and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403 ). The objectives of these rules and regulations are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with its operation;

- B. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into the receiving waters, or otherwise be incompatible with the POTW;
- C. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the POTW;
- E. To enable the City of Gardner to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and any other federal and State laws to which the POTW is subject.

These rules and regulations shall apply to all users of the POTW. The rules and regulations authorizes the issuance of wastewater discharge permits; provides for monitoring , compliance, and enforcement activities; establishes administrative review procedures; and requires user reporting.

#### 1.2 Administration

Except as otherwise provided herein, the Board of Water/Sewer Commissioners shall administer, implement, and enforce the provisions of these rules and regulations. Any powers granted to or duties imposed upon the Board may be delegated by the Board to other Town employees or officers.

#### 1.3 Abbreviations

The following abbreviations shall have the designated meanings:

A.S.T.M.	American Society for Testing and Materials
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
EPA	U.S. Environmental Protection Agency
gpd	gallons per day
mg/l	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
TSS	Total Suspended Solids
U.S.C.	United States Code
W.P.C.F.	Water Pollution Control Federation

#### 1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in these rules and regulations, shall have the meanings hereinafter designated.

- A. Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
- B. Approved Authority. The Region 1 U.S. Environmental Protection Agency Administrator or a designee.
- C. Authorized Representative of the User.
1. If the user is a corporation:
    - a. The president, secretary, treasurer, or a vice-president of the corporation a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
    - b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
  3. If the user is a Federal, State or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or a designee.
  4. The individuals described in paragraphs 1 through 3 above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town.
- D. Biochemical Oxygen Demand. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 centigrade, usually expressed as a concentration (e.g., mg/l).
- E. Building Drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

- F. Building Sewer. The extension from the building drain or other non-public sewers from residential, commercial and industrial areas to the public sewer or other place of disposal.
  - G. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (o) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
  - H. Color. The optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
  - I. Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
  - J. Director Board of Water Sewer Commissioners. Town of Ashburnham- or their authorized representative(s)/Director.
- Easement. An acquired right for the specific use of land owned by others.
- L. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.
  - M. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication of the EPA proposed categorical pretreatment standards, which will be applicable to such source, if the standard is thereafter promulgated in accordance with Section 307 of the Act.
  - N. Garbage. The solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
  - O. Grab Sample. A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.
  - P. Indirect Discharge of Discharge. The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.
  - Q. Industrial Wastes. The wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.



- R. Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- S. Interference. A discharge, which alone or in conjunction with a discharge of discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City of Gardner's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- T. Medical Waste. Isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- U. New Source.
1. Any building, structure, facility, or installation which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act. The construction of which there is (or may be) a discharge of pollutants, the construction will be applicable to such source if such standards are thereafter promulgated in accordance with the section, provided that:
    - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
    - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
    - c. The production or wastewater generating processes of the building, structure, facility, or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
  2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b)

or (o) above but otherwise alters, replaces, or adds to the existing process or production equipment.

3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - a. Begun, or caused to begin, as part of a continuous on site construction program.
    - i. Any placement, assembly, or installation of facilities or equipment; or
    - ii. Significant site preparation work including clearing , excavation , or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or in tallation of new source facilities or equipment; or
  - b. Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

- V. Noncontact Cooling Water. Water used for cooling, which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- W. Pass Through. A discharge which exits the POTW into waters within the boundaries of the United States in quantities or concentrations which , alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.
- X. Person. Any individual, partnership, co-partnership, firm, company , corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all Federal, State, or local governmental entities.
- Y. pH.- A measure of the acidity or alkalinity of a solution, expressed in standard units.
- Z. Pollutant. Dredged spoil, solid **waste**, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials , radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature , TSS, turbidity, color, BOD, COD toxici ty, or odor).
- AA. Pretreatment. The reduction of the amount of pollutants , the elimination of pollutants , or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration

can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

- BB. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment is imposed on a user, other than a pretreatment standard.
- CC. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.
- DD. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 3.1 of this ordinance.
- EE. Publicly Owned Treatment Works or POTW. A "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the Town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.
- FF. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.
- GG. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.)
- HH. Significant Industrial User.
1. A user subject to categorical pretreatment standards; or
  2. A user that:
    - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
    - b. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic organic capacity of the POTW treatment plant; or
    - c. Is designated as such by the Town on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
  3. Upon finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Town may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

- II. Slug Load or Load. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 3.1 of these Rules & Regulations.
- JJ. Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.
- KK. Stonn Water. Any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.
- LL. Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- MM. Town. Means Town of Ashburnham.
- NN. User or Industrial User. A source of indirect discharge.
- OO. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- PP. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW designed to provide treatment of municipal sewage and industrial waste.
- QQ. City. Being City of Gardner or their authorized agent.

## SECTION 2. - BUILDING SEWERS AND CONNECTIONS

- 2.1 No unauthorized person shall uncover, make any connections with or opening into, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director. Any person, except significant industrial users, proposing a new discharge into the system shall notify the Director in writing at least ten (10) working days prior to the proposed change or connection.
- 2.2 There shall be three (3) classes of building sewer permits: (a) for residential, (b) for commercial service not producing industrial waste and (c) for service to establishments producing industrial wastes. In each case, the owner or an agent shall make application on a form furnished by the Town. The application shall be supplemented by a plan drawn to scale (not less than 1" = 40"), showing the building location (proposed or existing), the location of the proposed connection to the sewer, proposed or existing sill elevation of the building to be connected, roadway or right-of-way centerline elevation, invert of sewer main at the point of connection, rim and invert elevations of any sewer manholes, location of connection from nearest manhole. If a pump is required, the applicant shall submit a plan, drawn to scale (not less than 1" = 40"), showing the

location of the pump and force main. Additional information may be required if it is considered pertinent in the judgment of the Director. A permit and inspection fee shall be made payable to the Ashburnham Water /Sewer Department at the time application is filed.

- 2.3 All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- 2.4 A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, or where it is not able to be subdivided, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- 2.5 Reserve for Ashburnham Requirements.
- 2.6 The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall conform to the requirements of all applicable building and plumbing codes or other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- 2.7 Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor in all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a method approved by the Director and discharged to the building sewer. A minimum of four (4) feet of cover shall be required for all building sewers, unless otherwise authorized by the Director.
- 2.8 The connection of the building sewer shall conform to the requirements of all applicable building and plumbing codes or other applicable rules and regulations of the Town. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials shall be approved by the Director in writing before installation.
- 2.9 The applicant for the building sewer permit shall notify the Director twenty-four (24) hours prior to installation and when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Director or his representative. Failure to give proper notice will require the building sewer to be re-excavated for inspection purposes. The cost for re-excavation shall be borne by the owner.

- 2.10 All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Director. All applicable permits must be obtained prior to excavation. A street opening permit shall be obtained from the Highway Superintendent prior to any work done in the public way. The Highway Superintendent reserves the right to deny street openings from November 1 to April 15, if adverse weather conditions exist.
- 2.11 Relation of Water Mains and Sewer Mains
- A. Sewer mains or services shall be laid at least ten (10) feet horizontally, from any existing or proposed water mains or services.
- B. Should conditions prevent a lateral separation of ten (10) feet, a sewer main or service may be laid closer than ten (10) feet to a water main or service if, for absolutely essential reasons, it is not possible to achieve such separation. The sewer may be located not less than three (3) feet horizontally from a water main or service, provided there is at least eighteen (18) inches below the bottom of the water main or service and the top of the sewer with the sewer below the water main or service.
- 2.12 A. In the case of a sewer extension on or to a new development, the owner shall install the sewer main in accordance with the rules pertaining to the subdivision of land and the laying-out of Public Ways as required by the Planning Board.
- B. Prior to any work, the owner shall file a plotted plan and profile prepared by a licensed professional engineer with the Director.
- C. The owner shall furnish the Director with a complete set of reproducible as-built plans detailing the location of wyes with measurements and elevations.
- D. Service location as-built drawings shall be submitted prior to the issuance of an occupancy permit.

### SECTION 3 - GENERAL SEWER USE REQUIREMENTS

#### 3.1 Prohibited Discharge Standards

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other nation, state, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- 1) Pollutants which create a fire or explosive hazard in the POTW, including but not limited to, waste streams with a closed-cup flashpoint of less than 140F (60 c) using the test methods specified in 40 CFR 261.21.
- 2) Wastewater having a pH less than 5.0, or otherwise causing corrosive structural damage to the POTW or equipment;
- 3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than 1/2 inch or 1.27 centimeters in any dimension;
- 4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- 5) Wastewater having a temperature greater than 150F (65 c), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 103F (40 c);
- 6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- 7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- 8) Trucked or hauled pollutants;
- 9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- 10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;
- 11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- 12) Storm water, surface water, groundwater, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, de-ionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized in writing by the City of Gardner DPW prior to any discharge;
- 13) Sludge, screenings, or other residues from the pretreatment of industrial wastes;
- 14) Medical wastes, except as specifically authorized by the Director in a wastewater discharge permit;
- 15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- 16) Detergents, surface active agents, or other substances which may cause excessive foaming in the POTW; or
- 17) Fats, oils, or greases, containing substances which may solidify or become viscous at temperatures between zero (0) degrees c (32 F) and sixty-five (65) degrees c (150 F).

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

### 3.2 National Categorical Pretreatment Standards

The national categorical pretreatment standards found at 40 CFR Chapter 1, Subchapter N, Parts 405-471 are hereby incorporated.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a categorical pretreatment standard is mixed prior to treatment with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined waste stream formula in 40 CFR 402.6(e).
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove to the satisfaction of the Director and the Approval Authority pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

### 3.3 Local Limits

The following pollutant limits are established to protect against pass through and interference. No person shall, unless otherwise approved by the EPA, discharge wastewater containing concentrations in excess of the following:

<u>Parameter Limit (mg/l)</u>	
Aluminum	11.323
Arsenic	3.084
Cadmium	0.028
Copper	0.300
Cyanide	1.046
Lead	0.020
Mercury	0.002
Nickel	3.278
Silver	0.025
Zinc	0.553



3.4 Town's Right of Revision

The Town reserves the right to establish, by Rules and Regulations or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

3.5 Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users, which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

SECTION 4 - PRETREATMENT OF WASTEWATER

4.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with these Rules and Regulations and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 3.1 of these Rules and Regulations within the time limitations specified by the EPA, the state, or the Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed written plans describing such facilities and operating procedures shall be submitted to the Director for review and acceptable before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Director under the provisions of these Rules and Regulations.

4.2 Additional Pretreatment Facilities

- A. Whenever he deems it necessary, the Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of these Rules and Regulations.
- B. The Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil and sand interceptors shall be provided when in the opinion of the Director, they are necessary for the proper handling of wastewater excessive amount of grease and oil, or sand, except that such interceptors may not be required for residential users. All interception units shall be of type and capacity approved in

writing by the Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected , cleaned , and repaired regularly, as needed, by the user at their expense.

#### 4.3 Accidental Discharge /Slug Control Plans

At least once every two (2) years, the Director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Director may require any user to develop, submit for approval, and implement such plan. Alternatively , the Director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non routine batch discharges ;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Director of any accidental or slug discharge as required by Section 7.6 of these Rules and Regulations and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures shall include , but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants , including solvents, and/or measures and equipment for emergency response.

#### 4.4 Hauled Wastewater

Per Intermunicipal Agreement, June 22, 1995. No septic waste from Ashburnham will be accepted by the City of Gardner.

### SECTION 5 - WASTEWATER DISCHARGE PERMIT APPLICATION

#### 5.1 Wastewater Analysis

If requested by the Director, a user shall submit information on the nature and characteristics of its wastewater within fifteen (15) days of the request. The Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

#### 5.2 Wastewater Discharge Permit Requirement

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director , except that a significant industrial user that has filed a timely application pursuant to Section 5.3 of these

Rules and Regulations may continue to discharge for the time period specified therein.

- B. The Director may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of these Rules and Regulations.
- D. Any violations of the terms and conditions of a wastewater discharge permit shall be deemed a violation of these Rules and Regulations and subjects the wastewater discharge permit holder to the sanctions set out in Sections 10 through 12 of these Rules and Regulations. Obtaining a wastewater discharge permit does not relieve a permit holder of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

5.3 Reserved

5.4 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW shall obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 5.5 of these Rules and Regulations, shall be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

5.5 Wastewater Discharge Permit Application Contents

All users required to have a wastewater discharge permit shall submit a permit application to the Director. The Director shall require all users to submit as part of an application the following information:

- A. All information required by Section 7.1(b) of these Rules and Regulations;
- B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- C. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- D. Each product produced by the user, identifying the type, amount, process or processes, and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances, by size, location and elevation, and all points of discharge;

G. Time and duration of discharges ;

H. Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge pennit application.

The Director shall not process incomplete or inaccurate applications and shall return said applications to the user for revision.

5.6 Application Signatories and Certification

All wastewater discharge pennit applications and user reports shall be signed by an authorized representative of the user and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

5.7 Wastewater Discharge Permit Decisions

The Director shall evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the Director shall determine whether or not to issue a wastewater discharge pennit. If the Director fails to make a determination within this time period, the application shall be deemed denied.

## SECTION 6-WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

6.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period not to exceed five (5) years. Each wastewater discharge permit shall state the specific date upon which it shall expire.

6.2 Wastewater Discharge Pennit Contents

Wastewater discharge permits shall include, but are not limited to, such conditions as are reasonably deemed necessary by the Director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- A. Wastewater discharge pennits shall, at a minimum contain:
- 1) A statement that indicates wastewater discharge pennit duration, which in no event shall exceed five (5) years;
  - 2) A statement that the wastewater discharge pennit is non-transferable without prior approval by the Town in accordance with Section 6.5 of these Rules and Regulations , and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
  - 3) Effluent limits based on applicable pretreatment standards;
  - 4) Self-monitoring , sampling, repolliing , notification, and record-keeping require ments. These requirements shall include an identification of pollutants to be mon i tored , sampling location, sampling frequency, and sample type based on federal, state, or local law ; and
  - 5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule . Such schedule may not extend the time for compliance beyond that required by applicable federal, state and local law.
- B. Waste water discharge permits may conta in, but need not be limited to, the following conditions:
- 1) Limits on the average and /or maximum rate of discharge, time of discharge , and/or requirements for flow regulation and equalization;
  - 2) Requirements for the installation of pretreatment tec hnology , pollution control, or construction of appropriate containment devices , designed to reduce, eli minate , or prevent the introduction of pollutants into the treatment works;
  - 3) Requirements for the de velopment and implementation of spill control plans or other special conditions including management practices necessaiy to adequately prevent accidental , unanticipated , or routine discharges ;
  - 4) Development and implementation of waste minimization plans to reduce the amount of pollutan ts discharged to the POTW;
  - 5) The unit charge or schedule of industrial user charges and fees for the management of the wastewa ter discharged to the POTW;
  - 6) Requirements for installation and maintenance of inspection and sampling facilities and equipme nt;
  - 7) A statement that compliance with the wastewater discharge permit does not relieve the permit holder of responsibility for compliance with all applicable federal and state and local pre-treatment standards, including those which become effective during the teml of the wastewater disch arge permit, and
  - 8) Other conditions as deemed appropriate by the Director to ensure compliance with these R ule s and Regu lations, and local, state and federal laws, rules , and regul ations.

### 6.3 Wastewater Discharge Pennit Appeals

Any aggrieved person, including the user , may petition the Director to reconsider the tenns of a wastewater discharge permit within thirty (30) days of its issuance .

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal. A timely petition for review shall be a prerequisite to an aggrieved person's appeal to a court of competent jurisdiction.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge .
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the Director fails to allow the request within fifteen (15) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative action for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Superior Court for the Commonwealth of Massachusetts within thirty (30) days after notice of any action or refusal to act.

#### 6.4 Wastewater Discharge Permit Modification

The Director may modify a wastewater discharge permit upon his own initiative or, upon the petition of an aggrieved person, within thirty (30) days of issuing of the underlying permit for good cause including, but not limited to the following reasons:

- A. To incorporate any new or revised federal , state , or local pre-treatment standards or requirements;
- B. To address significant alterations to the user's operation , processes, or wastewater volume or character since the time of wastewater discharge permit issuance ;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the Town's POTW, Town of Gardner's personnel, the public, or the receiving waters and or City of Gardner's Waste Water Treatment Plant;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;







CHAPTER 140  
S.B. No. 2005  
**TOWN OF ASHBURNHAM--CHARTERS**

AN ACT relative to the town charter for the **town of Ashburnham**.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 428 of the acts of 1986 is hereby repealed.

SECTION 2. This act may be cited and known as the Ashburnham governmental charter.

SECTION 3. The following shall be the charter of the **town of Ashburnham**:

Section 1. Upon the effective date of this act, the **town of Ashburnham** shall be governed by this charter. To the extent that this charter modifies or repeals existing general or special laws or that body of law which constitutes the town charter under Section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this charter shall govern. For the purposes of this charter, all references to officers, employees or other personnel shall apply equally to males and females regardless of the gender or pronoun used.

Section 2. The select board of the **town of Ashburnham** shall appoint the town accountant, the water and sewer commissioners, the town counsel, the constables and the members of the historical commission, the arts commission and all other boards, committees and commissions except those appointed by the moderator or otherwise appointed in accordance with this charter. The moderator shall continue to appoint officials heretofore appointed by the moderator.

The executive powers of the town shall be vested in the select board and it shall serve as the chief policy-making agency of the town. The select board shall continue to have and to exercise all of the powers and duties vested in boards of select board by the laws of the commonwealth or by vote of town meeting, except as otherwise provided in this charter.

Section 3. The regional school committee members shall continue to be elected in conformity with the votes of the regional school district. All powers, rights and duties, now or hereafter conferred or imposed by law upon the regional school committee, shall be exercised and performed by the regional school committee. Nothing in this charter shall be construed to affect the powers and duties of the regional school committee as provided by law.

Section 4. No member of the select board, the regional school committee or the advisory board, during the term for which such member was elected or appointed, shall be eligible either by election or appointment to hold any other town office. Any person appointed by the town administrator to any town office under this charter or any general or special law shall be eligible during the term of such office for appointment to any other town office, except that the town accountant shall not be eligible to hold the positions of town treasurer or town collector. The town administrator,

subject to any applicable general law relating thereto, may assume the duties of any office which he is authorized to fill by appointment.

Section 5. The select board, elected as provided in section 13, shall appoint, by majority vote, a town administrator as soon as practicable and for a definite term to be set by the select board. The town administrator shall be a person especially suited by education, training and experience to perform the duties of the office and shall be appointed without regard to his political affiliations or beliefs. The town administrator shall devote full-time to the office and shall not hold any other public office, elective or appointed, without prior approval of the select board, nor engage in any other business, occupation or profession during his term of office which would deprive him from devoting full-time to his duties during normal working hours. The town administrator need not be a resident of the town or of the commonwealth when appointed but he shall become a resident of the **town of Ashburnham** or of a town in the commonwealth within a 40 mile radius of Ashburnham during the first year of his term of office unless otherwise provided by the board of selectmen. The town administrator shall possess a college degree at the bachelor level and shall have had 3 years of full-time, paid experience in a supervisory administrative position, a portion of which, either full-time or part-time, shall have been in the public sector. A masters degree may substitute for not more than 1 year of such paid experience. The town administrator shall execute a bond in favor of the town for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed or approved by the select board and the cost for such bond shall be paid by the town. The select board may enter into a formal contract with the town administrator for a probationary period of 6 months to be followed by a term or terms not to exceed 3 years per term. The select board shall cause the contract to be reviewed by legal counsel. The select board may establish a job description for the town administrator, which shall take precedence over any personnel by-laws of the town.

The town administrator shall receive such compensation for his services as the select board shall determine, but such compensation shall not exceed the amount appropriated therefor by the town.

Section 6. If the office of the town administrator becomes vacant as a result of death, removal, resignation or otherwise, or if the town administrator is granted a leave of absence exceeding 2 weeks, the select board, by affirmative vote of a majority of its members, shall appoint a qualified individual to serve as acting town administrator. Any vacancy in the office of the town administrator shall be filled as soon as possible by the board of selectmen.

Section 7. Subject to approval by the select board, the town administrator may designate, by letter filed with the town clerk, a qualified officer or individual of the town to perform the town administrator's duties during a temporary absence or disability. If the town administrator fails to make such a designation, the select board may, by resolution, designate an officer or individual of the town to perform the duties of the town administrator until the town administrator shall return or his disability shall cease. In any case, the select board shall approve all warrants during the absence or disability of the town administrator.

Section 8. The select board may remove the town administrator from office in accordance with the following procedure:

(a) The select board shall adopt a preliminary resolution of removal, in writing, by an affirmative vote of a majority of its members. At least 30 days before such proposed removal shall become effective, a copy of the preliminary

resolution shall be sent to the town administrator, by certified and first class mail, to his address of record with the town. In the preliminary resolution, the select board may suspend the town administrator from duty.

(b) Within 10 days of receipt of service of such resolution, the town administrator may reply, in writing, to the resolution and request a public hearing. If the town administrator so requests, the select board shall hold a public hearing not earlier than 20 days but not later than 30 days after the filing of such request. Following the public hearing, if any, and otherwise at the expiration of 30 days following the filing of the preliminary resolution, the select board may adopt a final resolution of removal, after full consideration and by unanimous vote of the full membership of the board. Upon the adoption of a final resolution of removal, the select board may pay the town administrator severance pay in the amount equal to 1 month's pay for each full year of service to the town, but not more than an amount equal to 3 months' pay.

Section 9. The select board, in conjunction with the town administrator, shall annually define goals and performance objectives for the ensuing year, which the board and the town administrator determine necessary for the proper operation and welfare of the town and to attain the policy objectives of the board provided; however, that the town administrator and the select board shall meet and set such goals and objectives after the expiration of 6 months of a town administrator's first year in office. The select board and town administrator shall further establish, in writing, a relative priority among the various goals and objectives.

The select board shall review and evaluate the performance of the town administrator on a formal basis once annually. The review and evaluation shall include, but not be limited to: the town administrator's progress and performance relative to the annual goals and objectives as described in this section; budgetary and financial administration; personnel administration, supervision and leadership; staff development; public relations; employee and labor relations; policy execution; and interaction with governmental officials and the town's select board, departments, committees and other boards. After each formal review and evaluation, the town's select board shall provide the town administrator with a written evaluation report and with an opportunity to discuss the review and evaluation with the select board and submit written comments in relation thereto.

Section 10. In addition to the specific powers and duties provided in this charter, the town administrator shall have the following general powers and duties:

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(a) The town administrator shall be responsible to the select board for the efficient administration of all departments, commissions, boards and offices placed in the town administrator's charge by this charter, the select board or vote of town meeting, except the select board, the regional school committee, the municipal light board, the advisory board, the library trustees, the moderator and other boards, committees, commissions or officers, the discretionary powers of which are granted by statute.

(b) With the approval of the select board, the town administrator may, in accordance with this charter and unless expressly prohibited by general law: reorganize, consolidate or abolish departments, commissions, boards or offices under his direction and supervision, in whole or in part; establish such new departments, commissions, boards or offices as he deems necessary; and transfer the powers and duties of 1 department, commission, board or office to another.

(c) The town administrator may approve, upon the recommendation of department heads, the appointment and removal of all officers and employees of the town, subject to chapter 31 of the General Laws. Department heads shall select, on merit and fitness alone, all department employees for such recommendation. The town administrator shall appoint on merit and fitness alone and may remove, subject to said chapter 31, all officers and employees of the town who are not otherwise appointed or elected under this charter. Town officers and employees not subject of said chapter 31 shall not be removed by the town administrator except after 10 days notice in writing, setting forth the cause of such removal.

(d) Notwithstanding section 108 of chapter 41 of the General Laws, but subject to chapter 31 of the General Laws, the town administrator shall fix the compensation of all town officers and employees subject to appointment by him, except department heads and any employees under a written contract with the town. Compensation, changes in compensation or benefits or contract renewals may be recommended by the town administrator and shall become effective upon a majority vote of the board of selectmen.

(e) The town administrator shall attend all regular meetings of the select board except meetings at which his removal is being considered.

(f) The town administrator shall keep full and complete records of his office and shall render a full report of all operations during the period which the report covers and such a report shall be submitted as often as may be required by the select board but at least annually. Upon request, the members of the select board shall have full access to these records, unless such access is restricted by statute; provided, however, that the board shall not disclose any confidential or privileged information protected by law.

(g) The town administrator shall keep the select board fully advised as to the needs of the town and shall recommend to the select board for adoption such measures requiring action by them or by the town as he deems necessary or expedient.

(h) The town administrator shall have jurisdiction over the rental and use of all town property and shall be responsible for the maintenance and repair of all town buildings. He shall be responsible for the preparation of plans and the supervision of work on existing buildings or the construction of new buildings.

(i) The town administrator shall be responsible for the purchase of all supplies, materials and equipment, except books and educational materials for schools and books and other media for libraries, and shall approve the award of all contracts for all departments of the town. He shall make purchases for departments not under his supervision only upon requisition duly signed by the head of such department.

(j) The town administrator shall administer, either directly or through a person or persons appointed by him in accordance with this charter, all general and special laws applicable to the town, all town by-laws and all regulations established by the board of selectmen.

(k) The town administrator shall have authority, subject to the approval of select board, to prosecute, defend and compromise all litigation to which the town is a party and shall be the designated executive officer of a public employer in the town, in accordance with section 1 of chapter 258 of the General Laws, for the purpose of processing claims against the town.

(l) The town administrator shall be the select board's agent for collective bargaining and shall negotiate within parameters as may be established by the board. The town administrator may employ special counsel to assist him in the performance of these duties. Any grievance filed by a collective bargaining unit group shall be brought to the attention of the select board by the town administrator.

(m) The town administrator shall assist the capital planning committee in preparation of the town's capital plan.

(n) The town administrator shall attend all town meetings and shall be permitted to speak when recognized by the moderator.

(o) The town administrator shall be responsible for the implementation of town meeting votes and shall report annually, in writing, to the town meeting on the status of incomplete implementation of any prior town meeting vote.

(p) The town administrator shall be accessible and available for consultation to the chairmen of boards, committees and commissions of the town, whether appointed or elected, and shall make all data and records of his office accessible and available to the chairmen as they may request in connection with their official duties.

(q) The town administrator shall perform such other duties, consistent with his office, as may be required of him by the by-laws of the town or by vote of the select board or of town meeting.

(r) The town administrator shall act as grant coordinator for the town. He shall collect and distribute information concerning grants, establish uniform procedures for grant applications, prepare and assist in developing grant proposals and monitor all town grants to ensure fiscal and program compliance. Any grant that may add personnel or increase the operating costs of the town in a current or future year shall be approved by the board of select board prior to the submission thereof.

(s) The town administrator shall act as the town's insurance coordinator. He shall be responsible for ensuring that: all pertinent policies are in effect; adequate insurance coverage is provided; claims are properly processed; and cost benefit analysis is conducted on existing policies and he shall propose changes thereto. He shall render an annual report to the board of select board on all claims made and any losses sustained.

(t) The town administrator shall plan, organize and supervise the operational audits of the activities of town departments to evaluate the efficiency of resource utilization and the effectiveness of governmental services. Audit areas may include staffing, scheduling, vehicle management, and any other area requested by the select board .

(u) The town administrator shall ensure that the town maintains a professional personnel system by monitoring the

effectiveness of policies, procedures and practices as required by law and in accordance with proper personnel practices. He shall ensure that the recruitment, selection, promotion, transfer, discipline and removal of employees is conducted in accordance with applicable state and federal laws and with personnel by-laws and policies of the town adopted pursuant thereto.

(v) The town administrator shall facilitate crisis intervention in emergency situations working with the key officials of the town including the chair of the select board, the police chief, the fire chief, the department of public works, the water-sewer superintendent, the superintendent of schools and the town counsel.

Section 11. The town administrator may, without notice, cause the examination of the affairs of any division or department under his supervision or of the job-related conduct of any officer or employee thereof. The town administrator shall have access to all town books and papers for information necessary for the proper performance of such examination. The town administrator shall promptly transmit any findings of wrongdoing to the select board.

Section 12. Upon the expiration of the term of the town clerk in office on the effective date of this act, or if such office shall become vacant before the expiration of such term, the town administrator shall appoint the town clerk with the approval of the select board. The town administrator shall appoint, with the approval of the select board, the town treasurer, the tax collector, the assessors, the commission of trust funds, the industrial commission, the energy conservation and fuel allocation board, the council on aging, the conservation commission, the board of registrars, the zoning board of appeals, the election officials, the parks and recreation commission, and all other town officials whose appointment or election is not specifically provided for in this section. Unless otherwise specified by general or special law, members of all boards, commissions, committees and councils appointed by the town administrator shall be appointed for a specific term of office, not to exceed 5 years; provided, however, that for each such board, commission, committee and council, the term of at least 1 member shall expire each year. The town administrator shall appoint and may remove, subject to the approval of the select board and to chapter 31 of the General Laws, department heads, officers and subordinates and employees for whom no other method of appointment is provided in this charter. The town administrator's evaluations of all department heads shall be approved by the select board.

Section 13. The registered voters of the **town of Ashburnham** shall, in accordance with applicable law, town by-law and vote of the town, continue to elect the following:

- (a) the moderator;
- (b) the select board;
- (c) the regional school committee members;
- (d) the planning board;
- (e) the board of health;

(f) the library trustees; and

(g) the municipal light board.

Section 14. At least 90 days prior to the annual town meeting, the town administrator shall submit to the select board a careful, detailed and written estimate of the probable expenditures of the town government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town and specifically showing the amount necessary to be provided for each fund and department, together with a statement of the expenditures of the town for the same purposes in the preceding year and an estimate of the expenditures for the current year. He shall submit a statement showing all revenues received by the town in the preceding fiscal year, together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue, exclusive of taxes upon property in the ensuing year. The town administrator shall report the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise that amount. For the purposes of enabling the town administrator to project the annual estimates of expenditures, all boards, offices and committees of the town shall, at least 120 days prior to the annual town meeting, furnish all information in their possession and submit to him a detailed, written estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

Section 15. The select board shall consider the tentative budget submitted by the town administrator and make such recommendations relative thereto as it deems expedient and proper in the best interests of the town. On or before the seventy-fifth day prior to the annual town meeting, the select board shall transmit a copy of the budget, together with its recommendations relative thereto, to each member of the advisory board.

Section 16. The town administrator shall be the chief fiscal officer of the town. Warrants for the payment of town funds, prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws, shall be submitted to the town administrator. The approval of any such warrant by the town administrator shall be sufficient authority to authorize payment by the town treasurer; provided, however, that the select board shall approve all warrants in the event of a vacancy in the office of the town administrator. The town administrator shall present all warrants to the select board for review.

Section 17. All laws, town by-laws, votes, rules and regulations, which are in force in the town of Ashburnham on the effective date of this act, or any portion or portions thereof, not inconsistent with this charter, shall continue in full force and effect until otherwise provided by other law, town by-law, vote, rule or regulation, respectively. If any general or special law, town by-law, vote, rule or regulation is inconsistent with this charter, the provisions of this charter shall control.

Section 18. On the effective date of this act, any person holding a town office or employed by the town shall retain such office or employment and continue to perform his duties until another person or agency is selected to perform the duties thereof in accordance with the Ashburnham governmental charter. No person who continues in the permanent full-time service or employment of the town pursuant to this section shall forfeit his pay grade or time in service.

SECTION 4. This act shall take effect upon its passage.

Approved October 27, 2011.

MA LEGIS 140 (2011)

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